S. HRG. 99-317

NOMINATION OF CONSTANCE J. HORNER

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

ON

NOMINATION OF

CONSTANCE J. HORNER TO BE THE DIRECTOR OF THE OFFICE OF PERSONNEL MANAGEMENT

JULY 30, 1985

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NOMINATION OF CONSTANCE J. HORNER

TUESDAY, JULY 30, 1985

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The committee met at 2:13 p.m., in room SD-342, Dirksen Senate Office Building, Hon. Ted Stevens presiding.

Present: Senators Stevens, Durenberger, Eagleton, Levin, and Gore.

OPENING STATEMENT OF SENATOR STEVENS

Senator STEVENS. We do have permission to proceed.

We will proceed with the hearing on the nomination of Constance J. Horner to be Director of the Office of Personnel Management.

I have known of the work of Mrs. Horner in her present position as Associate Director for Economics and Government in the Office of Management and Budget.

Mrs. Horner, you have had to walk a fine line between general oversight of OPM as an agency and trying not to interfere with the day-to-day operation of setting specific policy in that agency. I see you have walked that precarious line.

We are aware also of the great lengths to which you have gone to avoid even the appearance of undue influence in the operations there. I personally congratulate you for that.

It is also a tribute to you that this is the only hearing going on in the Senate this afternoon. [Laughter.]

We have received a waiver of the objection to a hearing being conducted after the Senate has been in session for more than 2 hours.

We are required to conduct an inquiry into your experience, qualifications, suitability and integrity to serve in the position for which you have been nominated. Let me recount briefly for the record the steps that we have taken for the committee to prepare for this nomination hearing today.

First, the nominee was asked for and supplied financial statements and detailed information on education, employment and professional achievements. She also responded in writing to a number of prehearing questions.

Copies of the biographical information and the prehearing question responses will be placed in the record as part of this hearing and are available on request. The financial statement is available for inspection by the public in the committee's office.

The committee has reviewed the nominee's biographical and financial information as well as a report submitted on the nominee by the Office of Government Ethics. The general counsel of the Office of Personnel Management also submitted an opinion which has been reviewed by the staff.

In addition to that, I have personally reviewed the FBI report that was prepared on the nominee. I believe this also was provided to and reviewed by my good friend, the distinguished Senator from Missouri.

So on behalf of all of the members of the committee, Mrs. Horner, we welcome you and thank you for your cooperation in preparing for this hearing. My thanks are both from the members of the committee and from the staff also because this has all been done very efficiently. It makes for a very much quieter hearing when we have all of these things explored before the hearing starts.

I am delighted to see that the Senator from New Jersey is here to introduce you. I leave him that task, after I yield to my good friend, the Senator from Missouri.

Senator EAGLETON. In the interest of Senator Bradley's time, why don't we permit him to introduce her and then I will make my statement.

Senator STEVENS. Very well.

TESTIMONY OF HON. BILL BRADLEY, U.S. SENATOR FROM THE STATE OF NEW JERSEY

Senator BRADLEY. Thank you very much, Mr. Chairman, and also thank you to Senator Eagleton for allowing me to make the statement.

It is a pleasure to be here today to introduce Constance Horner to the Committee on Governmental Affairs. She is the President's nominee to be Director of the Office of Personnel Management. Mrs. Horner is first and foremost a native of New Jersey, where many members of her extended family still reside.

Mrs. Horner attended the public schools of New Jersey where her father taught for 40 years. She was educated as an undergraduate at the University of Pennsylvania and received her master of arts degree in English literature from the University of Chicago. Before entering Government service in 1981, she spent many years teaching, and more recently has written about matters of public policy.

Since 1981, she has held four different positions in Government, including Director of VISTA and Associate Director of the Office of Management and Budget for Economics and Government. Each of these positions has involved substantially increased responsibility for the execution of policy and management of Federal programs and personnel.

Mrs. Horner will be assuming her new position, Director of the Office of Personnel Management, at a time when the morale of civil servants is at an all-time low. She will face a difficult job to convince Federal workers that this administration is not trying to dismantle the civil service system.

In her prior positions, Mrs. Horner has developed a reputation for fairness, honesty and good judgment. Mr. Chairman, these are qualities which will be vital for leadership of the civil service, for protection of its merit principles and fiduciary responsibilities, and for enhancement of productivity and morale. I am confident that, if confirmed, Mrs. Horner will do an outstanding job.

I thank you, Mr. Chairman, for the opportunity to introduce her and wish the committee a speedy and positive deliberation on her nomination.

Senator STEVENS. Thank you very much, Senator. We are pleased that you came to introduce your constituent.

Senator Eagleton?

OPENING STATEMENT OF SENATOR EAGLETON

Senator EAGLETON. Thank you, Mr. Chairman.

I am pleased to welcome Constance Horner who has been selected by President Reagan to become the next Director of the Office of Personnel Management.

As Mrs. Horner knows, the appointment of the Director of the Office of Personnel Management not only requires Senate confirmation, part of the process which we are going through today, but is also limited to 4 years. A purpose behind limiting the Director's term to 4 years was to establish a check on potential partisan abuses.

The former OPM Director operated, in my judgment, on a partisan basis. Through active political campaigning and by employing such rubrics as "efficiency," "saving taxpayers' dollars," "effective management," and "in comparison with the private sector," he spread his political philosophy through every aspect of Federal employment—all the way through recruitment, hiring, promotion, pay, leave, reassignment, layoffs, retirement, health insurance, and training.

So, Mrs. Horner, under your leadership, I would hope to see the Office of Personnel Management return to a nonpoliticized civil service as enacted into law more than 110 years ago under President Arthur. Teddy Roosevelt, who served for 6 years as one of the first three Civil Service Commissioners, operated on the basis, in his words, of "high principle, idealism, and merit." That is the way I would like to see the Office of Personnel Management function today.

As the single administrator in charge of Federal personnel policy, your responsibilities will be enormous. More than 2.7 million persons work for the Federal Government—a staggering number of people. Because the career civil service is the backbone of our Government, I hope the committee will receive some assurances from you today that it will not have to witness political distortions in our Federal personnel system and that you will conduct the Office of Personnel Management in a fair and open manner.

So, along with Senator Stevens, I am delighted to have you here today at your confirmation hearing.

Senator STEVENS. Senator Durenberger?

OPENING STATEMENT OF SENATOR DURENBERGER

Senator DURENBERGER. Thank you, Mr. Chairman.

Mrs. Horner, I do have a prepared statement, but I am not going to deliver it. I ask instead that it be submitted for the record.

I came this morning because I feel fairly strongly about my responsibility as an employer.

I don't think that many of us who get elected to the Senate or the Congress ever think about our jobs quite that way. We are politicians, and we take care of our constituents. We legislate and a lot of things like that, but rarely, rarely do we ever think about the fact that we employ a lot of human beings to help us do our job.

I guess that is what brought me over here today. Because many of us—or let me say that I am a product of disillusionment with Government. I was elected the first Republican in 30 years from a Democratic State because people are disillusioned with Government in general.

I saw a public opinion poll that said the public's faith in Government is down to 22 percent again; something like Watergate. They are all ticked off. Of course, you know who they take it out on—the first Federal employee they can find.

I have always found that to be a bit unfair, because I could go through any department in the Federal Government and find some shirkers and loafers, and so forth; but I could also find some really brilliant people.

When I was in the Governor's office in Minnesota, if we didn't know how to solve a problem and get something done, I would call up the head of the union and say, "You are organized in that department. Tell me how we can do that job in that department better than it is now being done, and save some money."

So, I came here because I just wanted to impress you with the fact that I take my job as an employer very seriously. I am in the process of hiring you to help me do that job better.

It isn't just a matter of carrying out some mandate the public has about Federal employees. It is a matter of building people's self-esteem. It is a matter of getting along better with less. It is a matter of health care benefits, in light of the rising premiums. It is a lot of little things that the public doesn't give us one bit of credit for.

I look through your résumé, and it doesn't appear that you have spent much time as an employer. You were self-employed, and you worked for other people, and so forth.

So, I thought I ought to use my opening statement today to convey to you how seriously we on this committee take our jobs as employers of people. I really hope your responses to questions here today demonstrate a commitment to make Government a better place for all of us who work in it.

[Senator Durenberger's prepared statement follows:]

PREPARED STATEMENT OF SENATOR DURENBERGER

In 1982 public approval of the Federal Government dropped to its lowest level since Watergate. Only 22 percent of the public approved of the job the Federal Government was doing.

The situation has improved since then, but if you talk to Federal employees you wouldn't know it.

With good reason, they're demoralized: Bureaucratic horror stories are the grist of general conversation and newspaper articles. The impression most often conveyed is that bureaucrats—unlike the rest of us—are overpaid and underworked.

If this situation is not turned around or if it continues to decline, there is a limit to how much better the public's perception will get.

The plain truth is that we can't run the government without a professional, competent work force with high morale.

Yet we in Congress along with the President often find it convenient to pass off the problems of government as simply the results of bureaucratic bungling and mismanagement. If we could just clean house, all the roadblocks to effective, efficient government would disappear.

You and I know this just isn't so. Most Federal employees are as honest, hard-working, and competent as their counterparts in the private sector. In the past decade we have delegated more and more responsibility to Federal agencies, while at the same time given them less and less to do the job.

The Civil Service Reform Act of 1978 defined OPM's role pretty clearly. Quoting from the statute ". . . OPM was to be an independent body within the executive branch." While it was to bring the management of the civil service under the President, it was never Congress' intention to allow OPM to become a political arm of the White House.

Over the past four years OPM has been excessively politicized and hamstrung by continual, unnecessary controversy. As a result, it has not been doing its job effectively. Many of the problems can be traced directly to its former Director, Donald Devine. His openly confrontational attitude toward Congress, Federal employees and their representatives demoralized the civil service without producing any concrete results.

For example, the legislative achievements he claimed—such as Merit Pay reforms and Senior Executive Service pay increases—began as Congressional initiatives and were passed over OPM's objections.

Other OPM initiatives—such as changes in health benefits, proposals to change civil service retirement, and RIF reforms, have been rightly blocked by Congress or the Courts. Overall, compromises which are needed have been out of fashion at OPM. As a result, we are no better off now and in some ways we are worse off than in 1980.

The problem can be illustrated by the example of the Combined Federal Campaign. This issue is especially troublesome to me.

As you well know, we have been through several years of endless controversy over which groups will be allowed to participate in the CFC. At times, the uncertainty generated by this debate has threatened to cut off eligibility for deserving organizations and undermined the spirit of charitable giving which we all seek to promote. Now we have a chance to let the situation stabilize for a while. The CFC regulations used in last year's campaign worked well, and your predecessor, Acting Director Loretta Cornelius, gave assurances that this year's campaign, beginning next month, will operate under the same rules. In the interests of stability and good management, I certainly hope we will receive assurances from you that you intend to uphold Ms. Cornelius' commitment.

A second issue I'd like to bring up is that of the Federal Employee Health Benefit Plan. The FEHBP is the model of competitive health plan offerings for the country. It is looked to by the private sector for guidance on how to provide employees multiple choice of health plans.

But as with any system there are problems which you as Director of OPM will need to be aware of.

With the growth of alternative service delivery systems for health care across the country, there is currently a proliferation of plans seeking to come under the FEHBP umbrella.

For competition to work, employees need multiple choice, but what we now see in many areas of the country is that the number of choices is out of hand.

It is clear to me that OPM will have to set some limits in the near future. The criteria you as Director set will be important, not only for Federal employees but for the private sector that will follow your lead in setting its own policies about competition in health benefit plans.

Another problem you face with respect to FEHBP is that of adverse selection. Now the situation is not so bad because the rates set last year did not assume the tremendous drop in utilization which we have gotten.

But, as the rates adjust to new utilization levels it is likely that certain plans will be disadvantaged by this phenomenon. The objective of OPM should not be to promote one plan over another on the overly simple criterion of which is cheaper.

Rather, it should provide an environment where plans are rewarded not merely because they enroll a younger or healthier set of employees.

Finally, OPM has done a good job in providing information about various premium costs, deductibles, co-payments and the like. But, you could do a better job in the future by providing employees a sense of just what their likely out-of-pocket costs will be under various plans. This is exactly the kind of information they need to make the best choice. It's also the kind of example we ought to be setting for the private sector.

These are just two examples of areas where OPM could make more constructive use of its time than it has in the past.

In short, what I'm asking—suggesting really—is whether we can expect a different emphasis at OPM if you become Director. I noticed in your written responses to questions posed to you by this committee that you stated your belief that the single most significant factor in attracting and keeping talent in the civil service is the regard in which the Federal work force is held by the nation at large and as reflected in the attitudes of elected and appointed officials. It is my strong hope that you will be true to your word.

There are difficult civil service issues confronting us in the months ahead. We must find ways to improve and better manage the costs of the Federal employee retirement system. We must find ways to reward superior performance and strengthen the ability of the Federal work force to do the best job it can with the resources we have.

But, these issues can only be resolved if all of us—in Congress, in OPM, and in the Federal work force itself—work together constructively. The past four years have served to remind us, once again, that confrontation will not provide the answer to difficult problems.

Senator STEVENS. Mrs. Horner, under committee rules, I am required to administer the oath to you. Will you please stand and raise your right hand.

Do you swear that your testimony and the statements that you will make will be the truth, the whole truth, and nothing but the truth, so help you God?

Mrs. HORNER. I do.

Senator STEVENS. Thank you.

Do you have any statement you wish to make before we ask questions, Mrs. Horner?

TESTIMONY OF CONSTANCE J. HORNER, NOMINEE TO BE DIRECTOR OF THE OFFICE OF PERSONNEL MANAGEMENT

Mrs. HORNER. First of all, Senator, I would like to get into the record my gratitude to Senator Bradley for coming over here. I know he, as well as the rest of you, has a very pressing schedule today. I appreciate that, particularly in light of the high esteem I know the Federal work force holds him in.

I have some prepared remarks which I would like, if I may, to submit for the record and perhaps just make one very brief statement of a sentence or two and then turn to questions you may have.

Senator STEVENS. Fine, any way you wish to proceed. We will be glad to print the statement in the record. You are free to read it or make your statement or whatever.

Mrs. HORNER. I would like to give the gist of it, which is a sentence or two, which I think perhaps may address Senator Durenberger's concerns, although I hope to address them more fully as the hearing progresses, if that opportunity arises.

This morning I took a walk down Pennsylvania Ave. between reviewing materials for this hearing and saw all of the tourists lined up getting their pictures taken, grandparents, babies, and every-

thing in between, in front of the White House. I am sure, Senator, and Mr. Chairman, you had that happening at the Capitol today, and it has been happening at the Supreme Court today.

The people feel a need to be very close to their Government. They feel a very strong need to honor their Government.

We in Government have a very high obligation to ensure two things. One, that we ourselves honor our Federal work force; and two, that we provide the Federal work force with the appropriate tools and environment in which to serve the public. That service itself, when it is of a high quality, guarantees the esteem of the public.

We, I think, in the daily activities and the long-term accomplishments of the civil service, have the embodiment and ultimate validation of our system of Government. They are it. The rest of us come and go. They stay.

If the country cannot trust the impartiality and the responsiveness of its civil service, then we have cooked our national goose. And I hope that if this committee confirms me, I will have the opportunity to work closely with the Congress and the committee to ensure that that service is effective, that we do everything we can to make it effective, and that we honor it in our daily discourse about it.

I would be happy to answer any questions you may have.

Senator STEVENS. Thank you. Let me tell these people a little bit about you because I have a slightly different viewpoint from my good friend from Minnesota.

I was impressed with the fact that you had a scholarship to go to the University of Pennsylvania—not just a scholarship, but the Benjamin Franklin Scholarship, which I have heard about; that after you got your degree there, you went on to the University of Chicago, where you got an MA in English; and that you have worked and worked hard, obviously, since you got out of the University of Chicago, as a high school teacher and as a university professor.

You have been a freelance writer, worked with several publications including the New York Times and the Wall Street Journal, and you have worked for the candidates of your choice. You were active in ACTION and in VISTA. And now you have distinguished yourself in the Office of Management and Budget.

I don't disagree with the Senator from Minnesota that we are part of the process of employing people; however, I don't view the head of the Office of Personnel Management as an employer but rather as a representative of the employer in dealing with employees.

Senator DURENBERGER. I hope that is what I said. I certainly meant that.

Senator STEVENS. Well, I misunderstood then.

There is a vast disagreement in this committee. I am one who opposed the bill that created the OPM until we had some of the compromises which led to that new 4-year term the Senator from Missouri mentioned, because I disagreed with the past administration that did away with the bipartisan Civil Service Commission and established a single appointee at the head of the agency that sets the ground rules for the civil service.

But that is the way it came out. You are that person, Mrs. Horner, or rather, you will be that person. I have some questions for you about that and how you will conduct yourself, but basically I would first like to find out in terms of the Office of Personnel Management, do you have a philosophy of dealing with employee representatives, with employee groups? Have you thought about that, how you are going to approach this new position?

Mrs. HORNER. Yes, Mr. Chairman, I have. When I was at the ACTION agency, I worked with employee groups and employee representatives in situations involving mutual efforts at improvement of the activities of the agency and also in situations involving grievances and arbitration, and our relationships were open and frank and ultimately satisfactory, although one rarely wins or loses entirely in these situations.

When I was informed that the President intended to nominate me for this position, I placed telephone calls to the heads of the major representative bodies for employees simply to say hello and to say that if I was confirmed, I would look forward to working with them, and just wanted to express my interest in doing so.

Beyond that, I don't know what I can say at this point, except that I anticipate good working relationships, and that I am aware that these things do not always go smoothly, but that I would make every effort to see that they do.

Senator STEVENS. You have worked at OMB on some specific issues relating to Federal employees. Can you tell us what in general you have worked on?

Mrs. HORNER. In general what I have worked on has been primarily budget-related issues, and primarily those related to the retirement system for Federal employees. I am also involved in the legislative clearance process for Federal employee related issues.

Senator STEVENS. I am not sure you are even aware of it, but are you aware of the fact I made a commitment for you in the conference report on the supplemental appropriations bill that you would review the RIF regulations and publish the modifications, requesting public comments, and be reasonable in the modification of those proposed regulations?

Mrs. HORNER. Senator, any time you make a commitment I would be reasonable, I cannot demur. In fact, I understand you have worked closely with the Acting Director of OPM on this issue, that you have reached an acceptable accommodation. I entirely support it and look forward to publishing regulations in support of it, if I am confirmed.

Senator STEVENS. They are acceptable to me, but I am not sure if they are acceptable to you or anybody else. The only commitment we ask you to make is that you will follow through in the process and publish some proposed modifications to those regs that have been so controversial. We have now on four separate occasions passed an act of Congress to delay the publication of those.

We finally got a target date of July 1, and they became effective; but they became effective only after the dialog in which we said we would try to work out a middle ground to relieve the concerns of many, many people about the impact of those regulations. You are generally familiar with that.

Mrs. HORNER. Yes, I am, Mr. Chairman.

Senator STEVENS. I have not committed you to the content of the regulations. I don't think that is my prerogative. I did commit you to the process of accommodation, at least seeking some accommodation.

Mrs. HORNER. And I accept that commitment.

Senator STEVENS. I thank you very much.

Senator Eagleton.

Senator EAGLETON. I would be glad to yield to Senator Durenberger because I think I am going to be here a shade longer. Not that this will last terribly long. But I think he has other places he would like to go. I would be glad to yield at this time to Senator Durenberger.

Senator DURENBERGER. Thank you very much.

Let me compliment you on your opening statement. It certainly was responsive, even though it didn't need to be in that format. But anything I said about the fact that you didn't seem to have held an employer role didn't imply that you haven't already had a long, full, and rich life, in a variety of capacities.

There are two things that concern me on which you might have a position. One is the Combined Federal Campaign issue, if you want to just discuss that in a general way, if you have a view on it.

I have a fairly strongly held view that Ms. Cornelius was correct in saying that we probably ought to go with those 1984 or 1985 regs, whatever they are, on a temporary basis—until the lower court decides what the Supreme Court told it to decide—and not try, at this time, to distinguish between a political organization or an advocacy organization.

I hope that is about where you would come down on that issue.

Senator EAGLETON. Could I clarify? I will make that point later, but you are asking her to go in 1985 with the regs that already were in existence in 1984?

Senator DURENBERGER. Right.

Mrs. HORNER. Would you like me to comment, Senator?

Senator DURENBERGER. Yes, please.

Mrs. HORNER. As is often the case in the work we all do, we are in a situation where there are two competing, proper goals.

One represented by your sentiment, I think, is the goal of retaining the confidence of the public in the statements Federal agencies make to them. Prior to the Supreme Court ruling, I believe OMB sent out two memos indicating that the 1985 Combined Federal Campaign would be run under 1984 regulations, regardless of the outcome of that decision.

There is another consideration which is also a proper one, and that is that we have had since February 1983 a change in Presidential policy embodied in an Executive order, lengthy litigation, followed by that Presidential policy change being upheld by the Supreme Court.

Now, other things being equal, very timely implementation through regulation of a Presidential Executive order is desirable.

Now, if I were in the position to make this decision, what I would do would be to determine the extent to which legal and practical considerations ought to mitigate the ordinary response of implementing a Presidential Executive order.

Frankly, I don't think from my current position I am able to make that judgment. I would need to talk to people who are involved, talk to the parties who may have commenced their planning, for instance, seek legal advice on the ongoing litigation, and so on.

But I think these are the competing goals which I see in conflict here which would need to have some judgment applied to them.

Senator DURENBERGER. I don't envy you your task. And having spent years on the United Way Allocations Committee, making all of those decisions, I know it is a difficult undertaking. If you are going to approach it in both a rational as well as a legalistic way, I would be glad to try to be helpful in some way. But I think your background and your experience are well suited to the task.

The other question relates to the Federal employee health benefit plan. And here you ought to have your own relevant experience since you have a spouse and a couple of kids and have held various jobs.

If every employer in the country had adopted what we in the Federal Government did 25 years ago, our country wouldn't have the problems we do now in health care. Our problem today is in maintaining what we have, since there is so much choice in consumer health plans.

The chairman of this committee and I have spent 3 years trying to find some legislative solutions to some of the problems that faced your predecessor. If you have any particular views with regard to the current Federal employee health benefit plan system, or some views about the needs for change and so forth, I would certainly be interested in hearing those views. It is something we have wrestled with and about which we have had some difficulty coming to a conclusion.

I would at least like to hear you say that you feel very strongly about the role that the selection of health insurance or health plans has in the lives of Federal employees; and that if there are ways we can improve that selection process and the financing of it, you would make that a priority.

Mrs. HORNER. Senator, I will certainly make that a priority. It is a very heavy responsibility—over 2 million employees.

Health is something which is not a distant ideological concern. It is a very practical, daily concern which all of us, especially those who are parents or who have families, appreciate.

It is a serious responsibility of the OPM Director to work with the Congress to make sure that employees have as much choice and as much available to be helpful to them in their lives as they can.

Obviously, the administration has proposed a variety of ways of ensuring that, one of those being the voucher proposal, which obviously I would support because I do think that it offers the broadest range of choice and also allows us to keep costs down.

Beyond that, anything more specific would require my addressing the program from the position.

Senator DURENBERGER. I appreciate that answer.

Thank you very much, Mr. Chairman. Thank you, Tom, very much for yielding.

Senator EAGLETON. Fine, Dave.

Mrs. Horner, up until 1981, when you became Deputy Assistant Director for ACTION, your résumé indicates that you did some consulting and some freelance writing and some teaching. Were your teaching jobs full-time or part-time positions?

Mrs. HORNER. With the exception of the first 2 years I taught, they were part-time positions.

Senator EAGLETON. Am I correct in concluding that you did not have a full-time paying position until you went to ACTION in 1981?

Mrs. HORNER. Senator, I had a full-time paying position in 1965 as a teacher and also 1966.

Senator EAGLETON. You feel that you have sufficient experience to handle the enormous responsibilities associated with the job of Director of OPM?

Mrs. HORNER. Yes, Senator, I do.

Senator EAGLETON. Based on the fact that you had full-time employment back in the midsixties, then you were out of the employment picture on a full-time basis until 1981, do you feel that you are equipped for this very, very important, complex and, at times, almost overwhelming job?

Mrs. HORNER. Senator, I agree with you that it is very important, very complex, and perhaps sometimes overwhelming. I think that there are many women, Senator, of high intelligence and perhaps some wisdom who spent a lot of time at home out of a commitment to spending time with their children when they are young.

I did that by choice, even though we could not afford it particularly. I just chose to do it. My husband chose to have me do it.

During all of that time, I read and I taught. We lived in Washington. I had a very lively interest in government. I studied government as an undergraduate. I persisted in that interest at home. I developed ideas. I tested my ideas—and again, purely as ideas—with others.

I did not have management experience. I entered the Government and started to have management experience. And Senator, I think it has been an extremely intensive 4 years. I think I have learned a great deal. I think that people who have been out of the work force to care for families can catch up fast if they have the kind of help I have had from Federal employees.

In every job I have had in this administration, I have sat down with the staff on the first day and said, "Please help me. There is so much I don't know." They have helped me.

That is my model for the relationship between the political appointee and the civil service. The political appointee has heavy policymaking responsibilities but must be helped every hour of every day.

Senator EAGLETON. Part of the confirmation process is a thing called a prehearing, where members of the staff interview a proposed nominee. You were asked why, in that prehearing process, you were chosen for this nomination.

You gave three reasons. I would like you to elaborate on one of the reasons that you gave. "My demonstrated regard for the Federal employees with whom I have worked for more than 4 years."

Mrs. HORNER. Yes. Senator, how does one demonstrate that? I have had multitudes of letters from career employees with whom I

have worked who are now in far-flung regional offices, for instance, since my nomination was announced. That is a demonstration which only I know about.

How else does one demonstrate this? A feeling of accomplishment, the kind of feedback one gets that things are going well in one's particular unit of management responsibility that day, that week, that year. Smooth and satisfactory relationships, which I think have garnered considerable respect from those with whom I have worked.

I don't know how to demonstrate it, Senator.

Senator EAGLETON. How well do you think things are going, generally speaking, for Federal employees in terms of morale?

Mrs. HORNER. Well, the President's nomination has forced me to go back and look a little bit into the history of this issue. I am aware that on the one hand there is a perpetual concern about Federal employee morale. This is both a self-scrutiny and a scrutiny from the outside that seems to ebb and flow.

On the other hand, one also has a sense of very heightened concern at this particular time, which is something I would like to work to remedy.

I think that morale is based on two things. It is based on what we say about the character and quality of the civil service, and it is based on what the public sees of the character and quality of the civil service.

To the extent that Government has been enlarged, I think people have been forced to confront it more than they ever used to—more forms, more phone calls, more things to organize and arrange.

My own sense is that the quality of the civil service is very high. But the greater the numbers of people who become engaged in any activity, the larger the likelihood is that there will be some who haven't been sufficiently trained or perhaps don't, simply, have the right attitudes.

Those are things that we can work to resolve. We will never resolve them fully. I think that my own regard for the civil service might, if I were the Director of OPM, communicate a message to the civil service merely by virtue of that fact, that their morale should be somewhat enhanced.

Senator EAGLETON. I am not speaking from the viewpoint of science, but it is just my own subjective judgment. I have been in the Senate for 16½ years, the same length of time as Senator Stevens.

It is my feeling, based on conversations that I have on a random basis with different Federal workers, that morale in the Federal service is at an all-time low, certainly for those 16½ years. I can't vouch for years prior thereto.

Just by happenstance, I had dinner Saturday night, and three of the gentlemen at the dinner—there were about six couples there—were civil servants. One had just retired in March or April. Two were eagerly looking forward, to use their words, "to getting out of the damn thing".

The picture they painted was that working now for the Federal Government was a pain rather than a privilege; that it was something distasteful rather than an opportunity; that they were held in disrepute; that the quality of their work wasn't fairly judged; that there was an ever-widening "I don't give a damn" attitude

going through the civil service, and so forth. Very negative kinds of statements such as this.

We discussed it at some length because the next question I will get into is the new Federal retirement system. But we discussed it not only in the context of Federal retirement benefits—that may have touched off the conversation because I may have asked a question or two—but these three gentlemen went into it in greater depth in terms of just what the attitude was there.

The fellow that had just retired, the one in March or April, had put in 25 years. The other two gentlemen, I forget whether they were going to get up to about 25 or 30. But they painted a very negative picture.

When I go back to Missouri, I sometimes meet in either St. Louis or Kansas City with Federal workers, sometimes singularly and then sometimes in groups. Again, the picture I get is one of a very bleak and negative attitude.

Now, it is sometimes hard to put my finger on from whence it springs. But it just appears to me that it is there, that it is most prevalent, that it is deep, that it is widespread, and that it is going to work to the serious detriment of the Federal Government if it is permitted to continue.

Now, you haven't been in the Federal service for 16½ years so you can't compare the past with the present. But if you find, as you go in as head of OPM, that morale is, to use one of your words, ebbing, what would you try to do about it?

Mrs. HORNER. Senator, you mentioned retirement. There is also the issue of pay. The administration proposed a pay cut this year for Federal employees. No group of employees finds its morale enhanced by such a proposal, certainly not those who are being laid off in the private sector or having pay cuts or having two-tier systems of wages that are disrupting their union lives. None of those people feel their employee morale is being enhanced.

It is often the case that management decisions adversely affect Federal employees, simply and honestly do adversely affect them. Morale is not going to be good when that happens. Strong leadership, a clear explanation of why, can mitigate some of the misery. But I would not want to downplay the misery which can ensue upon those kinds of proposals.

On balance, the administration felt that it was important to make those proposals in the interest of overall fiscal health.

The employees were asked to do the same kinds of things that employees are asked to do when they are asked to take pay cuts in the private sector. This is a very large work force and, therefore, we are going to see very magnified effects.

Now, what I can say to that is that if similar circumstances should arise in another year, because I do think this is one of the main causes of the problem, I would make every effort to assure the Federal employee that proposals which tend to curtail or at least not continue an enhancement of benefits stem from no disregard for the very fine efforts these people are making, that they are not meant as a new form of Fed bashing, that they are not intended as a comment on the fine work that Federal employees do.

I would make that clear not only to the Federal employees but also to my colleagues within the administration and to the general public. I think it is very important to make that clear.

It is very important for us not to take the cheap shot of saying we can pay less because they don't deserve as much. It is important to make that distinction. I think if that distinction is very clearly made, that will mitigate some of the morale problems which have arisen but not entirely eradicate them.

Sentor EAGLETON. I think I will yield at this point, Mr. Chairman. I have some additional questions.

Senator STEVENS. Senator Levin?

Senator LEVIN. Thank you, Mr. Chairman.

Welcome, Mrs. Horner.

When we spoke, I indicated to you that I was interested in your reaction to some of the rhetoric which was used by Mr. Devine when he was out on the campaign trail. We know that he and you, if you are confirmed, have the right to engage in political activity. You are not Hatched. The issue isn't the legality of the engagement in politics. The real issue was and is the style, the extent of the rhetoric which accompanies the political involvement of the Director and the appropriateness of such rhetoric, even though it may be legal, technically, to engage in the kind of rhetoric which our last Director engaged in.

I sent you some of the articles in which he was quoted. As I remember, our hearings indicated that he did not suggest that he was inaccurately quoted in the newspaper clippings.

One of the clips was in the Washington Post when he said that, "The villain is Congress. It has no guts to make decisions."

Another quote, "Congressmen are like snowflakes. One or two don't make a difference, but a lot of bad ones are a problem, and unfortunately, you have got one here," the particular district that he was talking about.

Another quote, "Congress is the biggest management problem we have in Government. We can't run the Government because our board of directors, Congress, won't let us do it."

I wonder whether or not you think that kind of rhetoric is appropriate for the Director of your agency.

Mrs. HORNER. Specifically, the contention that Congress has no guts to make decisions is a formulation I would not use. I think it was a statement made in the context of discussing deficit reduction. I think the evidence would suggest that there is some difficulty in every branch of Government, arranging for deficit reduction these days, not just the Congress. I would include the courts, some of whose decisions contribute to Federal spending.

Senator LEVIN. What about the one about Congressman Albosta?

Mrs. HORNER. The one about Congressman Albosta, I'm sorry, this is very hard to read, about his being a bad snowflake. [Laughter.]

Senator LEVIN. No, it is not a bad snowflake.

"Congressmen are like snowflakes. One or two don't make a difference, but a lot of bad ones are a problem, and unfortunately, you have got one here."

Is that appropriate?

Mrs. HORNER. Senator, first of all, I don't know what Congressman Albosta was or wasn't doing to deter deficit reduction efforts. I have no idea what his involvement in that would be. So I can't speak to the accuracy of the statement.

That is not language I would use.

I don't particularly look forward to engaging in highly specific personal attacks on Members of Congress. On the other hand, I can't speak to what Dr. Devine had in mind in this particular case, because I don't know what it is Don Albosta was actually doing or not doing that elicited that comment.

Senator LEVIN. Do you think Congress is the biggest management problem we have in the Government?

Mrs. HORNER. I would never presume to try to manage Congress, Senator. What is the biggest management problem in Government?

Senator LEVIN. No, the question is, do you think Congress is the biggest management problem we have in Government?

Mrs. HORNER. I am trying to think through what the others might be, assuming that is a problem, so that I can put them in order. I don't assume that Congress is a management problem, Senator.

Senator STEVENS. You ought to be up here, then, if you don't think it is a management problem.

Senator LEVIN. I think it is a management problem.

Senator STEVENS. It is a real management problem. Don't be intimidated by his questions. I think he thinks it is a management problem, too.

Senator LEVIN. No doubt about it. At times it is a management problem.

Mrs. HORNER. I will put my management problem in the executive branch up against yours at any time.

Senator LEVIN. With what result? [Laughter.]

Another question I have relates to the alleged screening and advisory role on appointments persons outside the executive and legislative branch play.

We have read from time to time that persons outside of the executive branch and outside the legislative branch have some kind of a screening or advisory role on appointments. That is the context in which I would like to ask you this question.

Have you been asked to meet with and have you met relative to your nomination with persons outside of the executive branch and the legislative branch?

Mrs. HORNER. No, Senator.

Senator LEVIN. A final question relates to the memoranda which Ms. Cornelius has, a couple of memorandums that she has written relative to the Combined Federal Campaign. I understand that Senator Durenberger has asked you about this already. Your answer was that the Supreme Court has upheld the change in policy, the question now being whether or not a new change can be implemented this fall given the fact that Ms. Cornelius' memos said that the 1984 regulations will be applicable in the fall of 1985, and that there are a lot of activities that have relied on those two memorandums.

I know you have seen both memorandums. There are obviously, as you have said, two competing goals here. One is the need for

people to rely on the word of the Director or Acting Director of an agency. When they act on those assurances and memorandums that are written, they ought to have some right to rely on those kinds of statements or memorandums.

On the other hand, you have indicated that where there is a change in policy, that change should be put into effect.

The change in policy at issue was not approved by the Supreme Court, just to correct your testimony. The Supreme Court said it could be implemented if the motive for it was constitutional and correct. That is essentially what the Supreme Court has said. It depends on the motive, the purpose of that policy as to whether or not it can be placed into effect or not.

There is an option as to whether or not to put that policy into effect this fall. There is a remand to a lower court that is supposed to look at the purpose and the motive of those new regulations. So it is not as though there is a green light. There is a yellow light as to whether you can do that, yellow being dependent upon the motive. But even if the motive is proper, there is no mandate from the court to start this fall. Even if the motive were proper, you would simply reauthorize it to begin when that lower court finding of propriety is made.

So I want to press a little further on it, because I am very much disturbed.

We have, as a matter of fact, one competing goal that is stronger than the other, because the other is still in limbo. The one competing goal, it seems to me to be clear, is that there are memorandums that have been filed which people ought to have a right to rely on, indicating that the 1985 campaign will be based on the same regulations as the 1984 campaign.

Having said that, let me ask you a couple of questions. One, assuming you have the authority to proceed this fall, is it your inclination to do so?

Mrs. HORNER. Senator, as Senator Stevens mentioned in his opening remarks, I have been extremely punctilious in the past weeks since the intention to nominate me was announced, in respecting the authority of the Acting Director of OPM.

I am in a position at OMB where it is very easy for me to influence or at least participate in agency decisions if these are agencies under my general area of responsibility.

It would have been possible for me, over the past 4 days since this issue was brought to my attention as an issue, to seek a legal opinion as to what the relationship is between a pending case and a Supreme Court upholding of an Executive order. I don't know, and I did not seek that opinion, because I consider it, until such time as I am confirmed and sworn in, entirely the responsibility of the Acting Director.

Now, I appreciate your necessity to know the drift of my thinking on this in evaluating my candidacy. The problem is that my thinking would be very much colored by legal advice and by the kinds of conversations Senator Durenberger urged upon me with people like him who are interested, presumably yourself, and especially the organizations about whose degree of planning I have no independent information at this time, nor do I have any capacity to search it out.

So I would like to be able to tell you what my thinking is, but it doesn't exist to be described, and it can't exist until I assess the situation, and I cannot assess it at this time.

Senator LEVIN. So even in terms of your characterization of the Supreme Court opinion, that would also be open to amendment, I gather, upon legal advice somewhat less than what you have described?

Mrs. HORNER. I can't frankly recall how I characterized it.

Senator LEVIN. However you characterized it.

Mrs. HORNER. I would characterize it now as upholding the Executive order and requiring a lower court to assess the motivation which underlay the promulgation of the regulation under consideration.

However, it is not clear to me what the connection is between any lower court finding and the Executive order. It is not clear to me that the Executive order would be invalidated by any particular lower court finding.

I don't know whether the obverse is a possibility or not, either. I'm not a lawyer, and I would have to seek legal advice from people knowledgeable about personnel issues in this particular case.

Senator LEVIN. And you would have no particular predilection one way or the other relative to the use of the new rule in the 1985 campaign?

Mrs. HORNER. No, I really can't say that I have. It is a matter of balancing commonsense with historic mandates of efficacy for the executive branch, and I will have to see what the commonsense problems are that would mitigate timely implementation.

There may be some.

Senator LEVIN. Would you be consulting with members of this committee on whether or not to implement that new regulation, assuming you have the authority to do so?

Mrs. HORNER. I would be very wise to do so, I think, and happy to do so.

Senator LEVIN. Thank you, Mr. Chairman.

Senator STEVENS. Senator Eagleton?

Senator EAGLETON. Mrs. Horner, who are you going to turn to for legal advice?

Mrs. HORNER. In the first instance, if I were Director of OPM, I would turn to the counsel, the OPM counsel, for legal advice.

Senator EAGLETON. Mr. Joseph Morris?

Mrs. HORNER. I believe he is the OPM counsel, yes.

Senator EAGLETON. I would think that over. [Laughter.]

Obviously, there are also, when there are differences of opinion within the administration, alternative sources of advice.

Just to tidy up this Combined Federal Campaign, it seems to be the major issue of your nomination. Senator Durenberger asked about it, Senator Levin has asked about it, and I had a whole book of questions about it, but I will try to make it a little shorter and a little sweeter.

Somebody has handed you this.

Mrs. HORNER. I frankly don't know what this is.

Senator EAGLETON. I am going to try to figure it out with you.

Anyway, it is a series of dates for the years 1982, 1983, 1984, and 1985, and the point we made with this little graph is as follows: Go

down to the second line, "Proposed Regulations." In 1982, they were issued on May 11, and the deadline for local applications—that is how the charities got into the game—took 10 weeks from proposed regs to the deadline for local application. That is what occurred in 1982.

In 1983, the proposed regs were June 24, and the deadline for local applications was September 19. That took 11 weeks.

In 1984—that is last year—the proposed regs were April 13, and the deadline to get into the campaign was September 17. That took about 20 weeks. That was a long one.

Now, 1985. This is the problem year. Let's assume that by some miracle you were Director of OPM tomorrow. We are going to try to get you through as quick as we can, but let's just assume tomorrow, you made it tomorrow, August 1, and let's assume you could move as quick as has ever been done in recent years. You could get all this done in 10 weeks.

That would mean you can issue new regs. You couldn't get them out until October 15. To start a campaign for these charities on October 15 and give them time to conduct the campaign and wind it up, there just isn't enough time if they start October 15, because as they get into mid- and late November, they start coming up against the Christmas charity crunch. Raising money for charities is competitive, both in terms of the organizations that seek the money and the time during which the money is raised. Some organizations raise money during Eastertime. Some, I guess the red, white, and blue crowd, probably raise it around July 4. These charities start after Labor Day or mid-September, and then of course, the Christmas charities come in.

So the point I am making—and I ask unanimous consent, by the way, Mr. Chairman, that this little date sheet be put in the record.

Senator STEVENS. It will be.

[The chart referred to follows:]

	1982	1983	1984	1985*
Executive order issued	Mar. 23, 1982	Feb. 10, 1983		
Proposed regulations	[1] May 11, 1982	[2] June 24, 1983	[3] Apr. 13, 1984	[1] Aug. 1, 1985
Final regulations	[1] July 6, 1982	[2] Aug. 1, 1983	[3] Aug. 16, 1984	[1] Sept. 10, 1985
Deadline for national applications	[1] July 16, 1982	[2] Aug. 15, 1983		[1] Sept. 20, 1985
Deadline for local applications	[1] Aug. 23, 1982	[2] Sept. 19, 1983	[3] Sept. 17, 1984	[1] Oct. 15, 1985

*Estimated under optimistic assumptions.
[1] 10 weeks.
[2] 11 weeks.
[3] 20 weeks.

Senator EAGLETON. The point I am making is that if you are in office tomorrow and issue your new regs, you would be putting them out too late for the campaign to be efficacious.

What is your comment on that?

Mrs. HORNER. My comment on that is this is precisely the kind of practical information which needs to be looked at in making this decision.

There are considerations such as waiving the comment period. There are possibilities such as waiving the 30-day waiting period in

the final regulation, a broad range of regulatory options, and also there is a great deal of information I need to understand just for the conduct of the job, let alone for this issue, about what the agencies actually do in preparing for the Combined Federal Campaign.

I don't know whether we are talking about 1 week of intensive labor or 1 day a week for 3 months or full-time one person. I'm not sure what the range is and what is entailed in doing this organization and how much change it would entail.

So I will certainly, if I am Director of OPM, consider this as a significant comment on the complexity.

Senator EAGLETON. There will be many things that you will have to do and want to do very early on in your term. I just addressed one of them, the Combined Federal Campaign.

Another will be quite possibly, I think probably, the new Federal retirement system for new civil service workers. It is quite possible that some bill dealing with that subject matter might be introduced before we adjourn for the August recess. It is quite probable that some hearings will be held on it in September when we come back.

Will you be prepared to testify on that bill when we come back on behalf of the administration, giving specific views, administration views on the followup, the overall cost of the new system as expressed in terms of percent of payroll; a cost-of-living factor, otherwise known as COLA; a three-benefit package based first on Social Security, then on a defined benefit, then on a thrift plan, and specifically, the cost and scope of the thrift plan thereof, as well as the defined benefit; and finally, a disability section, both as to how it should be structured and to the cost of that, and numerous other things that this bill will contain? But these four would probably be the most discussed.

Indeed, other things will be discussed, but these would be the most discussed.

Mrs. HORNER. Senator, if a bill is introduced, we will—because this is very important—conduct the administration's customary review very expeditiously. As soon as that review is conducted, I will certainly be prepared to testify.

We are most hopeful that the administration and the committee and the Congress can work together well on this, and if the technical means are available within OPM or within OMB to adduce the costs of these particular items, then certainly, I would be prepared to discuss them.

I have to qualify that by saying I don't know precisely what technical problems might be involved. But absent those, I would see no problem.

I will also be subjected to administration discipline but without further qualification, I would be most happy to discuss it with you.

Senator STEVENS. Would the Senator yield right there?

Senator EAGLETON. Yes.

Senator STEVENS. This is one of the reasons that I wanted to have this hearing this afternoon and that we obtained a waiver for your hearing, because I am hopeful that we will get your name to the Senate before we recess for this August period.

But I want to assure the Senator that we have already made the request for the study that you have just outlined. If it's possible, we will have that information.

I also want to assure him that we will not have the hearing if the information is not available. We cannot possibly proceed with the consideration of the legislation that we have worked on for 5 years unless this latest version is costed out.

So I want to give you my personal assurance that we will not proceed until we do have the information so that Mrs. Horner would not be put in a position of having to tell us that she could not answer the questions which we think are vital to the consideration of this new legislation.

Senator EAGLETON. I understand that, Mr. Chairman. I think this bill can be costed out between now, roughly, say August 1 through September after Labor Day. You have got 5 weeks or so. I should think that the administration, with all of the expertise it has available, computers and all kinds of statisticians and what-have-you, could cost the bill out.

If they have any problem, we can cost out any bill that they want. We use a thing called the Library of Congress, and the facilities are there. If there is anything OMB or OPM wants costed out, if they can't cost it out, we can.

If we cannot go forward in September with this bill, there will be no new system, and then we are faced with an awful lot of trouble with respect to new employees of kicking them into a system that would cost 14 percent of their salary, 7 percent for civil service, 7 percent for Social Security, for a total of 14 percent out of pocket, which to a Federal worker at any level, whether it is a marginal low job or the highest level in the system, would be an awful, awful kick.

So I think it behooves all of us to see if we can move on this. Now, it isn't all the administration's fault. Congress has dillydallied around quite a bit, so this isn't a question of just pinning the blame on one branch of Government.

But Mrs. Horner, will you, as the new Director of OPM, do all within the power and prestige of that office to urge your fellow people in the executive branch to move on their analysis of this bill in a timely, forthcoming way?

Mrs. HORNER. Yes, Senator.

Senator EAGLETON. As Senator Levin pointed out and Senator Stevens may have pointed it out to his dismay, your position is not under the Hatch Act, nor is the Office of Secretary of State, the Office of Attorney General, or the Office of Secretary of Defense. They are not under the Hatch Act, just to get your sense of what is legal and illegal.

You are not a lawyer, as you said. When one is not Hatched, I will tell you as a lawyer, one can go to political meetings and one can go and give political speeches. One can go to political conventions, if you are not under the Hatch Act.

It gets a little sticky if you are under the Hatch Act what you can do. If you are not under the Hatch Act, you can do those things.

What would you sense as propriety? What would you think of the propriety of the Attorney General of the United States, say, being a delegate to a national convention, any Attorney General.

Let's go back and say Robert Jackson—who was Attorney General under Franklin Roosevelt, who later became a Supreme Court Justice—let's say Robert Jackson became a delegate to the 1936 Roosevelt Convention and then spent days and days and days campaigning for a whole bunch of Congressmen and one Senator in the fall of 1936 campaign, and flew to these political meetings mostly at Government expense; he charged the Government for about 98 percent. Jackson—this is hypothetical—flew to California to speak for a couple of Congressmen out there and talked to a couple of lawyers at the airport for 5 minutes so he could charge 98 percent to the Government and $64 or something like that to the congressional campaign.

What would you think of the propriety of the late Attorney General Robert Jackson having done that?

Mrs. HORNER. Senator, first I would have to ask about the propriety of the President to appoint an obvious political junkie to the highest law enforcement level in the land. When the President makes an appointment, it is to a job. It is to the management and leadership of an important function of Government.

I would not think very highly of that. I think—of course, I am not sensitive to the context in which Robert Jackson was doing this.

Senator EAGLETON. He never did it.

Mrs. HORNER. What would I think if he had done it? I am very relieved to hear that.

Senator EAGLETON. If he had done it, you would have called him a political junkie?

Mrs. HORNER. Yes, Senator, I would have.

Senator EAGLETON. So would I. That is a good phrase. That is the only one I didn't use. [Laughter.]

He would be a political junkie. What if back then, if Secretary of State Cordell Hull had traveled the same path as Attorney General Jackson? Would he have been a political junkie?

Mrs. HORNER. Senator, yes.

Senator EAGLETON. I agree.

Mrs. HORNER. I can see very clearly the drift of your questioning.

Senator EAGLETON. I agree. And both would have been permitted to have done it legally, because they weren't Hatched then or now, but they would have been political junkies holding those offices, and it would have violated your sense of propriety, my sense of propriety, the sense of propriety, I suspect, of most everyone in this room.

Now, let's get up to 1985. I think it would be impropitious for Attorney General Meese, who came out of a heavy political background, but nonetheless is now the Attorney General of the United States, to conduct himself that way.

I know George Shultz would not conduct himself that way. He would find that obnoxiously improper. Caspar Weinberger, although it would be legal for him to do it, I think he would find it unseemly for the Secretary of Defense to be down there at the barricades of contentious and partisan politics.

What about the head of civil service? What about the person, as you said, that is supposed to give the image of being impartial in civil service matters? Should the head of civil service, and soon it will be you, in a matter of hours, be at the political barricade in contentious partisan political politics?

Mrs. HORNER. Senator, I said the civil service should give the appearance of being impartial.

Senator EAGLETON. That is right. You are the head.

Mrs. HORNER. The civil service.

Senator EAGLETON. And nobody can give off the aroma of the civil service any better than the numero uno.

Mrs. HORNER. Senator, I make a very clear distinction between the head of the civil service and the civil service, but I appreciate what you are saying, and I'm extremely sensitive to the necessity for the exercise of good judgment in this matter. I went back and read the legislative history in which Senator Stevens and Senator Mathias discussed their preference, strong preference, that the head of civil service not be free to engage in political activities.

The Congress did not make that decision, as you have pointed out and Senator Levin has pointed out. Nonetheless, a sensitive political appointee is sensitive to legislative history and evaluates on a case-by-case basis the decisions he or she needs to make with that as one of the significant factors in the evaluation, not necessarily always the overriding or necessarily the exclusive one, but always a significant one, and I would get precisely the same.

Senator EAGLETON. I told you the law is clear. Senator Stevens and Senator Mathias fought a noble but lost cause. They wanted to retain the three Commissioners that would have been Hatched, that would have been prohibited from this kind of activity, but they lost. So legally, you can do this, as can these three other Cabinet members that I mentioned, both present and by previous illustration, and you called them political junkies.

If you went running around the country in partisan politics in the 1986 election, supporting a whole host of Republican candidates and flying there at mostly Government expense and did a tidbit of Government work at the airport or in a hotel room, would you be a political junkie in 1986 if you did that?

Mrs. HORNER. I can't define that term more precisely.

Senator EAGLETON. It is a term you created.

Mrs. HORNER. That was a very extreme characterization, Senator, of someone who spent many days away from his job. The job has to come first. The job of directing the civil service and assuring that its fiduciary responsibilities are met and that its management responsibilities are met comes first. I believe that is the case for other leadership positions in the Government also; perhaps no more than this one; perhaps in some cases less.

At any rate, I think that since I was Hatched for the last 4 years, I have an acute sensitivity personally to the constraints that are wise in certain situations, and I would continue to exercise that sensitivity.

Senator EAGLETON. The word propriety, Mrs. Horner, is a difficult word to define. I am not even sure what Webster's definition of it is. It is something, though, that you don't go to your lawyer—you certainly don't go to Mr. Morris and ask him to define it—or

you don't go to any lawyer to define it, and you really don't go to Webster's dictionary.

Propriety is something that you feel as a matter of your personal beliefs and you feel it in your inner being, and you ask yourself: Is it the proper and, secondarily, is it the prudent thing for the head of OPM, the head of civil service, the system that was supposed to be impartial, is it propitious and prudent for the head of OPM to involve him or herself in an elaborate political campaign?

I could answer the question. I am not sure how you do answer it. You say you are going to weigh things, consider it. I am not sure you really answered the question. I am not sure how you feel about it as a matter of what propriety means to you.

Mrs. HORNER. Senator, you just said, is it propitious or is it an act of propriety to engage in elaborate political campaigning. I think the use of the word "elaborate" precisely describes what is not an act of propriety. Now, then, the question becomes what is elaborate and what is not. These are not things it is possible to spell out in detail in advance.

I think my conduct to date and my reputation are both suggestive of the kind of judgment that I do exercise in these matters, and I expect——

Senator EAGLETON. Your reputation, your conduct are totally unblemished. You have a marvelous background and reputation. None better, perhaps none better than I have ever seen before this committee or any other committee.

But you come to this office by reason of the fact that your predecessor was not reconfirmed, and although there might have been more than one reason for that, one of the heaviest, one of the heaviest in my mind, was the inordinate, nonstop, unending political use of that office.

It isn't as if we were considering he was a nominee back a few years ago. Your nomination is juxtaposed to your immediate predecessor. That is why I ask these questions, and you appreciate that fact.

I just think it is wrong as hell for the head of civil service to engage himself or herself in partisan politics; legal as hell, but wrong as hell, as it would be if Attorney General Meese did it. That would be impropitious. If George Shultz did it, that would be impropitious, or if Caspar Weinberger did it, that would be impropitious; legal for all three of them, but a terribly imprudent thing for them to do considering the positions they hold. I say the same thing with respect to the position you are about to hold.

That is all I have, Mr. Chairman.

Senator STEVENS. Thank you.

I have been asked to question you further about the Combined Federal Campaign. Let me just make sure everybody understands that this was one of the areas that I agreed with Mr. Devine on. He had to approve 149 groups for the Combined Federal Campaign. When I was at the Interior Department I was in charge of what we called the Community Chest Drive in those days. I think there were seven groups.

There were a whole series of groups that were admitted to the CFC under a court order. They included every sort of group that you can imagine, all with an office in Washington, particularly ad-

vocacy groups, specifically, legal foundations, the Puerto Rican Legal Defense Fund, the Education Fund, the Sierra Club Legal Defense Fund, the National Right to Life Educational Trust Fund and a whole host of others.

Incidentally, I didn't agree with him on the problem of Planned Parenthood. I have always supported Planned Parenthood, but that is another matter. The problem with this process is that all you have to do is make an application and prove you are a nonprofit corporation in order to get money out of this fund, and now the fund is going downhill. Government employees are not going to contribute to just any organization, in my judgment.

So I did agree with the action of the President in trying to limit the number of groups that were included in CFC.

But on the other hand, the Senator from Missouri makes a very good point about the timing, and I have got to tell you, he is making you an offer you sort of can't refuse but legally you can't commit yourself to. We are going to put you on notice that when you are confirmed—and I hope that you will be confirmed soon—you will receive a request from this committee in the event that you determine to issue new regulations under the court decision. As a lawyer for some 35 years, I have to tell you, if you can understand that decision, you are a better lawyer than I am.

But we will request that if you determine that you are going to issue new regulations, you do permit a public comment period. As I told some of my colleagues, you cannot commit now, as I understand the Federal law.

But on the other hand, I think we can legitimately ask you to give it due consideration. The position of this committee on a bipartisan basis is that it is too late to change the rules of the game for 1985.

Mrs. HORNER. I will certainly give that possibility good consideration, Senator.

Senator STEVENS. I think you are a reasonable person, and a reasonable person will look at the circumstances and realize that the Senator from Missouri makes a great point. No one wants to contribute on Thanksgiving Day to something that should have been presented to them on Labor Day. It is not the fault of the OPM that that is the situation.

But it is the fault, in my judgment, of the OPM system that has led us to this CFC with 149 groups, and I understand you have a whole new group of people petitioning to get in. I don't know how anybody is going to solve this, short of an act of Congress.

Senator Gore, could you pardon me just a minute? I don't know how long we will remain here, but I do want to take the occasion to introduce the nominee's husband, Charles Edward Horner, who is here, and I assume that that is David.

Mrs. HORNER. That's David, yes.

Senator STEVENS. Your son, David. Thank you.

Senator Gore.

OPENING STATEMENT OF SENATOR GORE

Senator GORE. Welcome. I apologize for being a little bit late for this hearing. We had an announcement of the Saturn plant in

Nashville this morning. Senator Sasser and I felt we should be there, and we just got back into town. I apologize for being late to this hearing, but I wish you well, and I am glad to have a chance to ask you a few questions here. I would like to review one issue that has been of concern to me, and that is the issue of the Government system for conducting security checks on personnel who have access to sensitive and classified materials.

The recent *Walker* case and other infamous espionage cases before it have made us all aware of the need for a solid system of security checks to combat the threat of espionage.

Another subcommittee of this full committee had a hearing on this subject not long ago. During that hearing, some information was presented concerning OPM's responsibilities in this area. I reached the conclusion, as one member of the committee, that OPM was not doing a good job in this area and had made some mistakes.

President Reagan instituted an interagency group to address the various loopholes in our security system and to make necessary recommendations. The group was chaired by the Justice Department and was comprised of OPM, DOD, the FBI, the CIA, the State Department, and the Treasury Department. They made fairly good progress, and in May 1984, they presented an option paper to the National Security Council.

Unfortunately, the NSC has yet to act on the recommendation, but that is another matter that is not addressed to you.

Where your predecessor erred, in my opinion, was in January 1985, while this interagency group was still awaiting White House action. The OPM Director unilaterally issued an order called Basic Installment 311, which amended the Federal Personnel Manual on the criteria and method of conducting suitability checks. First of all, the actions were extremely troubling in that not a single agency involved in the NSDDA-4 group was consulted prior to the issuance of those regulations.

The Department of Defense was so annoyed that Secretary Weinberger wrote a scathing letter to Dr. Devine on February 7, 1985, in which he noted:

> We believe that any program change as wide-reaching in division as Basic Installment 311, which has implicit impact on our military and industrial security programs, require the fullest coordination with all executive branch agencies. Basic Installment 311 was issued without that necessary coordination.

DOD later went to the trouble to get itself exempted from the OPM regulations in their 1985 authorization bill. Even more troubling, if not outright ridiculous, is the effect that this order had on our basic criteria for evaluating security risks. As another agency noted in response to a survey by the committee:

> A Federal employee who does not have access to secret material or facilities is subject to a more stringent background investigation than Federal employees who do have access to secret materials or facilities.

Well, that is a ridiculous situation, and it is the direct result of OPM's precipitous unilateral action. So my question to you is, are you willing to review and revise Basic Installment 311 so that it might be in better coordination with the interagency group of

which the FBI, the CIA, the State Department, and the Defense Department, et cetera, are members?

Mrs. HORNER. Senator, I became aware of this as an issue, I think, only during the course of our conversation last Friday, and this morning placed a telephone call to the responsible individual at OPM, the Associate Director for the Compliance and Investigation group, to try to get a handle on the nature of the problem.

He offered me a rationale for OPM's actions in this regard, and you have provided a serious criticism of OPM's action in this regard. Obviously, given that circumstance, I could only but responsibly take a look at the problem, and I can assure you that I will take a look at the problem, first of all, to ascertain in more detail what its nature is; and second, to look at the competing points of view with respect to it.

I take security investigations with the utmost seriousness. I agree the *Walker* case suggests we ought to pull ourselves up short on this and take a look.

Senator GORE. Those views which compete with the views of OPM on this are the views of the FBI, CIA, State, Justice, and Treasury. I would hope that OPM wouldn't stay out on the end of this long limb in the process to require a very inefficient allocation of resources for security checks within the Government at a time when the problem is very, very great and we are trying to solve the problem.

I will take your response, but look forward to following up on it.

On another matter, on May 17 of this year, Blue Cross/Blue Shield announced their proposal to refund $465 million to the Federal Government and the U.S. Postal Service and $289 million to 1½ million Federal employee and retiree subscribers.

Blue Cross/Blue Shield took this action in an effort to reduce their Federal employee reserves to the target level set in their contract with OPM.

I had extensive interchanges with your predecessor about the reserve levels in this program, and I would simply like to ask for your view of the Blue Cross/Blue Shield proposal.

Mrs. HORNER. Senator, I am delighted any time when we find a taxpayer, and in this case, the Federal employee taxpayer, has paid in too much for some good he is supposed to get and to see that he is able to get the money back.

I certainly hope that will be the outcome of all of this discussion. But you raise a very serious and long-term issue, which is the question of the size of the Federal employee health benefit reserves, and I can discuss that further, if you want, but I am happy to see a rebate being offered, and I hope that it all works out.

Senator GORE. All right. For the record, could you tell me what OPM is doing through the Federal employee health benefit program to encourage health promotion and disease prevention benefits for Federal employees?

Before the hearing, I did not forewarn you of this question, so if you are not prepared and wish to respond for the record, I will be glad to have you respond.

Mrs. HORNER. I would like to respond for the record.[1]

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[1] See p. 59.

Senator GORE. Fine, I would like a very thorough response, if you would, and if you would add to that a response to a second and related question: What do you believe OPM could be doing to provide greater health promotion and disease prevention emphasis to the Federal employee health benefit program?

I want to wish you well. I personally believe that we ought to move forward with this nomination, assuming that all of the committee members' concerns are adequately addressed. I think in view of the lengthy process that has been required to fill this vacancy, we should move with all due speed.

I would like to say one other thing before I close, Mr. Chairman. That is, I would like to publicly commend Loretta Cornelius for what I believe has been an outstanding job as an interim Director at a time of great difficulty at OPM.

I think her work has been really splendid. I just wanted to say that for the record and wish this nominee designate smooth sailing.

Thank you, Mr. Chairman.

Senator STEVENS. Thank you. We appreciate your timely questioning.

Mrs. Horner, I am reminded of a little printed piece of paper that either my wife or my second daughter put under my phone. It was very short, and it said that when God completed the world in 6 days, she rested on Sunday but still got the evening dinner. [Laughter.]

I want to commend you in terms of your lifestyle and what you have done in reentering government in full employment, in terms of the decisions that you have made in your lifetime. I think they are indicative of a very fine person, and we are pleased to see that you will be the head of OPM.

I think many of us who have worked for a long time in Government to bring about equality in Government are very interested to see also that the President has selected a woman to head the OPM.

I also commend Dr. Cornelius and the work that she has done.

I urge you to follow your instincts in this new job. This is going to be a tough period for all of us. We are going into some very difficult problems, the worst of which is the retirement program that we must change.

I have just been informed that the Department of Defense authorization bill has restored the required 5-percent cut in civilian pay but has mandated a 3-percent increase in military pay. If you think that is going to make your job easier, then welcome to the team. [Laughter.] I really don't understand that decision.

But in any event, it is not going to be an easy road; it is going to be a rocky road. You are going to require the firm support of your family in your job, and I note that you have it by the fact that they are here. We welcome you. We have just received the approval of Senator Eagleton to poll out your nomination, which we will do immediately.

We do have another witness to hear. I just wanted you to know before you leave that we will expedite the confirmation process. If it is at all possible, we will see that it gets to the floor before the recess, because I think you should have as much time as you possibly can to review the retirement issue prior to the initiation of our hearings in September. To show you the complexity of that, we

have scheduled 3½ days on this subject after we return in September. I look forward to working with you. I look forward to your approach.

Senator GORE. Mr. Chairman, may I just have 1 or 2 additional minutes?

Senator STEVENS. Yes, sir.

Senator GORE. I will try to be very brief.

A colleague, Senator Rockefeller of West Virginia, asked me to ask a few questions. He has introduced legislation which has strong bipartisan support concerning black lung. I will submit the bulk of these questions for the record for you to respond to, but I wanted to point your attention toward this problem because it is one that you could solve and really do a good thing.

You will soon be more familiar with it, because it involves an age-old OPM policy that has a tremendous effect on claims for relief under the black lung program. OPM continues to rule that black lung cases, when appealed to administrative law judges in the Department of Labor, should be heard and determined by the agency's ALJ's classified as GS–15's.

The problem with this is that out of the 90 ALJ's in the Labor Department, only 28 are GS–15's. The rest, the other 62, are GS–16's.

For the most part, these numbers reveal the simple explanation of why there is a backlog of 21,000 black lung cases that will not be heard.

So I will ask you a number of questions about it, but clearly, from a management perspective, there is something very wrong. Because of OPM's insistence that black lung work is only for GS–15's, these 28 judges must try to process 21,000 cases, while the other 62 judges have 9,000 cases. It is really a management problem. I don't expect you to decide today, right here on the spot, to reverse OPM's policy, but a confirmation hearing is, in part, an opportunty to make a new person aware of problems that have been lingering for a long time, and this is one that I really wish you would give your personal attention to.

I will supply you with the documentation on the problem and a number of questions for the record. On behalf of Senator Rockefeller and at least 27 other Senators who are cosponsors of legislation to try to force OPM to do what it seems obvious it should do, I would just ask for your commitment to assess this issue and decide whether or not it is the time for OPM to adjust its policy and fulfill the purpose of the law in this area.

Mrs. HORNER. Senator, may I clarify? Do you want me to assess that in my role as OPM Director, not prior to? Do you want me to assess it tonight, I guess, is what I am asking you? Or do you merely want me to respond with the administration's probably already developed response to that?

Senator GORE. Assuming that you are confirmed, which you will be, I want your commitment to get into this. Are you aware of the issue?

Mrs. HORNER. No, Senator, I'm not.

Senator GORE. All right. The questions will be for you to look at for the record, and as soon as you can get to them, I would appreci-

ate it if you would look into it. It might be more likely that the bureaucracy will really focus on it if you get on it.

Mrs. HORNER. I will, Senator.

Senator GORE. Thank you very much.

Thank you, Mr. Chairman.

Senator STEVENS. Thank you.

I find that we have questions here from Senator Mathias concerning the program that OPM has instituted to reduce the number of grade 11 to 15 positions to cure a so-called grade bulge problem, and a GAO study has raised serious questions about that problem.

He wants to know, are you familiar with that report?

Mrs. HORNER. Would you tell me which report? I am familiar with work done in this area, but would you tell me again what the report is? Whose is it?

Senator STEVENS. It is a GAO report on an OPM down-grading program dealing with a so-called grade bulge problem.

Mrs. HORNER. I am aware that the subject has been discussed, and I have participated in discussions on that subject. I would have to refresh my memory for detail, but I believe the administration has made an attempt to reverse what it sees as an excessive inflation of the number of people at those grade levels.

OPM is currently monitoring agency by agency, I believe, to determine if there is an attempt being made to reduce excessive numbers of people at those grade levels.

Senator STEVENS. This statement says it is suggested by the GAO report and by employee representatives at HUD, where the program is being implemented, that there are ways to achieve comparable savings and improve position management without creating negative effects in the Federal work force. He would like me to ask you, would you be willing to review the original OPM proposal and rework it if necessary so that negative effects would be eliminated?

Mrs. HORNER. As a matter of fact, Senator, I am now recalling that we did make a decision that we would assume some reduction in personnel and, therefore, take budget savings on that assumption, but that we would leave it to the agencies' decision, provide the agencies with flexibility to decide precisely how to take those reactions, because we did discover that some agencies would find it much more legitimately difficult than others to do that.

But I would certainly make any further assessment that is necessary.

Senator STEVENS. I will tell him of your response, and we will see if any further responses will be necessary. Again, I thank you. We look forward to working with you. It is going to be a long, hard fall. I hope that you are prepared for that when we come back.

Mrs. HORNER. Thank you very much, Mr. Chairman.

Senator STEVENS. Thank you very much.

[Mrs. Horner's biographical information, responses to prehearing questions, prepared statement, and responses to written questions submitted by Senators Gore and Mathias follow:]

54-780 O - 86 - 3

July 19, 1985

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEE

CONSTANCE HORNER

A. Biographical Information

1. Name:

Constance Joan Horner (nee McNeely)

2. Position to which nominated:

Director, Office of Personnel Management

3. Date of nomination:

4. Address:

Residence
3171 Porter Street, N.W.
Washington, D.C. 20008

Office
Associate Director for Economics and Government
Office of Management and Budget
Room 262 Old Executive Office Building
Washington, D.C. 20503

5. Date and place of birth:

February 24, 1942 - Summit, New Jersey

6. Marital status:

Married Charles Edward Horner - May 7, 1965

7. Names and ages of children:

Jonathan Purcell Horner, 10
David Bayer Horner, 16

8. Education:

Chatham High School
Chatham, NJ - Graduated 6/60

University of Pennsylvania
Philadelphia, PA
B.A. in English Literature - 5/64
(Attended: 9/60-5/64)

University of Chicago
Chicago, IL
M.A. in English Literature - 5/67
(Attended: 9/66-5/67)

9. Employment record:

5/83 to Present
Associate Director for Economics and Government
Office of Management and Budget
262 Old Executive Office Building
Washington, D.C. 20503

10/82 to 4/83
Acting Associate Director for Domestic and Anti-Poverty Operations while concurrently serving as Deputy Associate Director of ACTION for VISTA and Service-Learning (from 3/82 to 4/83)
ACTION Agency
806 Connecticut Avenue, N.W.
Washington, D.C. 20525

6/81* to 3/82
Deputy Assistant Director of ACTION for Policy Planning and Evaluation
ACTION Agency
806 Connecticut Avenue, N.W.
Washington, D.C. 20525

*Hired as consultant from 3/5/81 to 6/20/81.

11/80 to 1/81
Member of the Transition Team
Department of Education
Head: Lorelei Kinder
Washington, D.C.

8/80 to 11/80
Volunteer (Policy Coordination & Research)
National Headquarters
Reagan-Bush Committee
Arlington, VA

1/80 to 5/80
Volunteer (Policy Development & Research)
National Headquarters
George Bush for President Committee
Alexandria, VA

6/77 to 12/79
Self-Employed as Free-Lance Writer
I contributed articles of public policy analysis in domestic areas to the following publications, among others:

The New York Times Magazine
New York, NY
Contact: Steven Munson, Associate Editor

The Wall Street Journal
New York, NY
Contact: Thomas Bray, Editorial Board

The Journal of the Institute for Socioeconomic Studies, White Plains, New York
Contact: B. A. Rittersporn, Jr., Editor

The American Spectator
Bloomington, Indiana
Contact: R. Emmett Tyrrell, Editor

1964 to 1977
Teacher: English composition and literature, English as a second language, as follows:

1972-1977
Georgetown Day High School
4880 MacArthur Boulevard, N.W.
Washington, D.C. 20007
Contact: Gladys Stern, Director

1967-1968
University of Maryland Extension Division;
Taiwan Normal University; &
Taiwan Political Science University
Taipei, Taiwan

1965-1966
Oak Park-River Forest High School
Oak Park, Illinois

1964-1965
East Islip High School
Islip Terrace, New York 11752

Supervisory personnel for 1964-68 above no longer available.

10. Government experience: (...other than listed above)

None.

11. Business relationships:

None.

12. Memberships:

Member, Executive Women in Government

13. Political affiliations and activities:

(a) List all offices with a political party which you have held or any public office for which you have been a candidate.

None.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

Membership in Republican party since August 1984. Membership in Democratic party continuously until then since 1960.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $50 or more for the past 10 years.

Rob Quartel for Congress, $100 contribution, 6/4/84.

14. Honors and awards:

Benjamin Franklin Scholarship as an undergraduate at the University of Pennsylvania, assorted undergraduate honor societies.

15. Published writings:

(1) "Paid Parenthood: Cui Bono?" The American Spectator, 1/78.

(2) "The Family: Next Ideological Battleground?" The Journal of the Institute for Socioeconomic Studies, Winter, 1978.

(3) "Debunking the Educational Debunkers," The Wall Street Journal, 6/23/78.

(4) "The Revisionists Revised A Critique of the Radical Attack on the Schools," The Journal of the Institute for Socioeconomic Studies, Autumn, 1978.

(5) "Women's Proper Place: A History of Changing Ideals and Practices, 1870 to the Present," The American Spectator, 3/79.

(6) "Education by Choice: The Case for Family Control," The Journal of the Institute for Socioeconomic Studies, Autumn, 1979.

(7) "Schools in a Society 'Overdosing on Change'," The Wall Street Journal, 9/5/79.

(8) "Is the New Sex Education Going Too Far?" The New York Times Magazine, 12/7/80.

16. Speeches:

None delivered on relevant topics.

17. Selection:

(a) Do you know why you were chosen for this nomination by the President?

I believe I was chosen for this nomination by the President for three reasons: my demonstrated regard for the federal employees with whom I have worked for more than four years; my successful management of budgets and staff during that time; and my general familiarity with federal personnel issues stemming from my OMB responsibilities in that area.

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

During my tenure at ACTION and at OMB, I have supervised up to 300 employees and managed an operating and program budget of up to $100 million. Although management of OPM and its resources is on a far greater scale, I believe my intimate dealings with major departments as an OMB associate director have familiarized me in great detail with the wide variety of difficult decisions federal agencies confront and with methods of dealing with those decisions. At OMB, I have had to negotiate within the Administration and with the Congress over multi-billion dollar programs and small but sensitive line items, in departments as diverse as Treasury, Transportation, HUD, Justice, and Commerce, as well as OPM, GSA, SBA, and most regulatory agencies. Juggling the competing demands of legislation and budget for these agencies has taught me, I hope, the necessary management skills and policy sensitivity.

B. Future Employment Relationships

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

I have no current business relationships.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

No.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

No.

4. Has anybody made a commitment to employ your services in any capacity after you leave government?

No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Yes.

C. Potential Conflicts of Interest

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

I have none.

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

There are none.

3. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

There are none.

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

I have engaged in none of this kind of activity, except, naturally, in the course of fulfilling my daily duties as a federal employee since 1981.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

To the best of my knowledge and belief, I have no financial interests which would cause any actual or apparent conflicts of interest, if the Senate confirms me. Should any potential conflict be brought to my attention, I would disqualify myself from participating in that matter in my official capacity or divest myself of the interest in potential conflict. In making a determination as to whether a conflict exists or appears to exist, I would seek the advice of the designated agency ethics officer at OPM.

6. Do you agree to have written opinions provided to the Committee by the General Counsel of the agency to which you are nominated and by the Attorney General's office concerning potential conflicts of interest or any other legal barriers to your serving in this position?

Yes.

D. Legal Matters

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

On March 31, 1983, an EEOC complaint was filed by one Lillian B. McGill, a State office employee of the ACTION agency. As a second-line supervisor, I was included among those named in the complaint. I do not know the disposition of the complaint.

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details.

No.

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No.

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense?

No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None.

July 23, 1985

PREHEARING QUESTIONS & ANSWERS FOR CONSTANCE HORNER

I. NOMINATION PROCESS AND POTENTIAL CONFLICTS

1. Why do you believe the President nominated you to serve as Director of the Office of Personnel Management?

I believe I was chosen for this nomination by the President for three reasons: my demonstrated regard for the Federal employees with whom I have worked for more than four years; my successful management of budgets and staff during that time; and my general familiarity with Federal personnel issues stemming from my OMB responsibilities in that area.

Were any conditions, expressed or implied, attached to your nomination?

No.

2. Is there any issue currently under consideration by the Office of Personnel Management from which you may have to disqualify yourself?

No.

Have there been any such issues during your service at the Office of Management and Budget? If so, please explain.

No.

II. RESPONSIBILITIES OF THE DIRECTOR OF OPM

1. What do you believe are the most important functions of the position of Director?

- o To execute, administer, and enforce the laws, rules, and regulations governing the civil service in accordance with merit principles;
- o to insure the agency's fiduciary responsibilities are met in connection with the civil service retirement and benefit programs;
- o to serve as advisor to the President for matters dealing with effective management of the Federal civil service;

- to develop and promote effective personnel management practices throughout the government.

2. Do you believe action needs to be taken to improve the morale and productivity of government employees? if so, what?

High morale and strong productivity can be important factors in reducing the size and cost of government and enhancing service to the public. Productivity is a key indicator of both individual and organizational performance. Recent changes in the way Federal employees' performance is appraised provide opportunities to recognize and reward individual employee productivity. We need to continue to refine this system and encourage supervisors and managers to use it to increase productivity and build morale.

We should continue to look for additional opportunities for productivity improvement in the Federal sector. Workers in any sector--public or private--who are committed to and involved in their work and who see results from improved efforts are more productive and have higher morale.

3. What actions will you take as Director of OPM to improve both the capability and the public perception of the civil service?

Public opinion polls have shown an increased positive perception of government since President Reagan came into office.

If confirmed, I intend to make every effort to impress upon the public that their increased confidence in government is caused in part by the high quality, highly-effective civil service system which serves them.

To improve the capability of employees to do the public's work is, of course, a major responsibility of the OPM Director. Enhanced reward for performance, strong executive leadership, clearly defined job responsibilities, and effective work environment are areas I would pay special attention to.

4. What steps will you take to improve the operations of OPM itself? Do you plan any reorganizations?

I have not reached any conclusions regarding organizational changes for OPM at this time. I know that a number of organizational changes have been implemented over the last several years to achieve greater efficiency of operations and to live within approved budgetary levels. I will continue to seek efficiencies in operations whenever possible where they make sense. When the potential for future savings through proposed reorganization presents itself I will make an individual determination based on the facts at that time.

5. Do you expect to engage in any political activities in addition to performing your functions as Director during your tenure? If so, please specify which activities you believe are appropriate.

The Civil Service Reform Act provides that the position of Director of OPM is not subject to Hatch Act constraints on political activity. Therefore, it is permissable for the OPM Director to engage in such activity. If confirmed, I will decide on a case-by-case basis which political activities are appropriate to engage in, and what degree of political activity is appropriate in toto, given the nature of the Director's responsibilities to the civil service. I would hope to exercise sensitivity and prudence in making these judgments.

6. If requested to do so by the White House, the Republican Party or aspirants to political office, would you participate in any activities on behalf of a political candidate?

I will decide on a case-by-case basis whether to accept requests for political activities, after evaluating such requests in light of the obligations of office.

III. INTERNAL AND EXTERNAL RELATIONS OF OFFICE OF PERSONNEL MANAGEMENT

1. What should be the relationship of OPM to (a) the President, (b) the Congress, and (c) other Executive agencies?

(a) The President. The Director of OPM is the President's personnel management advisor on civil service matters. This relationship includes:

- advising the President on actions to promote an efficient civil service and application of merit system principles; and

- recommending policies relating to the selection, promotion, transfer, performance, pay, conditions of service, tenure and separation of employees.

(b) The Congress. OPM should be responsive to the interests and concerns of Congress and should work cooperatively in promoting legislation to enhance the effectiveness of the civil service in meeting public needs. OPM should therefore maintain strong channels of communication with Members of Congress and their staffs.

(c) Other Executive Agencies. OPM should:

- provide advice and ensure agency compliance with civil service laws, rules, and regulations; and

- assist in the efficient operation of agency programs, including providing technical management assistance to improve performance and productivity.

2. What is your view of the role of OPM in relation to the Merit Systems Protection Board, the Special Counsel and the Federal Labor Relations Authority?

In its role as the central personnel agency for the Executive Branch with responsibility for government-wide personnel policy, OPM keeps abreast of the decisions of these three appellate bodies. OPM's continuing assessment of the decisions is designed to:

a. inform agencies of significant cases and trends affecting their labor and employee relations;

b. provide Federal agencies with policy guidance, technical asistance and training related to the impact of MSPB and FLRA decisions and practices on agency personnel management; and

c. identify which decisions, in OPM's judgment, are based on an erroneous interpretation of civil service law, rule, and regulation and

take appropriate action to have such decisions reversed or modified.

MSPB and FLRA are also authorized to request advisory opinions from OPM regarding the interpretation of OPM regulations. Although OPM can disagree with MSPB, FLRA, and Special Counsel decisions on significant employee and labor relations issues, it has had and will continue to have a constructive relationship with these agencies, as each carries out its respective responsibilities.

3. Do you believe any changes in the functions and authority of your office, the Special Counsel or the Merit Systems Protection Board are warranted?

I believe that it is generally recognized that the Federal Government's overall system for resolving disputes, be they MSPB appeals, unfair labor practice charges, EEO complaints, or grievances, is complicated, costly, and time consuming. At this time, however, I have no specific recommendations for change. Any proposals for major change would require extensive broad-based review.

4. In 1983, the Congress gave the Director, Office of Government Ethics substantial independence and autonomy. Will you support and preserve the independent standing of this office?

I will fully support and preserve the independence and autonomy of the Office of Government Ethics.

5. What should be the relationship of OPM to OMB?

On one level, OPM and OMB have the normal client-management agency relationship as they do with all other agencies. For example, OPM must operate within the same government-wide budget process and OMB must comply with the personnel regulations for a merit system.

On another level, OPM and OMB are both central management agencies which advise on, and implement, a broad range of initiatives affecting the general management of the government. Therefore, it is important that both agencies cooperate with each other and coordinate their activities to improve management practices and achieve greater efficiency of operations government-wide.

While recognizing the importance of cooperation and coordination between OPM and OMB, as central management agencies, I also recognize and fully support OPM's unique and independent statutory responsibility to be a guardian of the Federal merit system and an effective and prudent manager of the many fiduciary responsibilities assigned by statute to that agency.

6. Please describe your concept of the appropriate role of OPM in relation to individual departments and agencies.

My concept of the appropriate role of OPM in relation to departments and agencies is embodied in OPM's statutory mandate. It was created to provide leadership in personnel management for the civil service. OPM's overall role is to advise agencies, to assist in developing policies for the recruitment and retention of a quality work force, and to carry out programs such as retirement and health benefits.

IV. THE CIVIL SERVICE REFORM ACT

1. What oversight procedures, if any, are needed to monitor the implementation of the Civil Service Reform Act and assure compliance with merit principles?

The Civil Service Reform Act is very broad in its coverage of Federal personnel matters. It was also appropriately broad in foreseeing the structure of delegations and oversight necessary for proper implementation of the Act's provisions.

While the Office of Personnel Management provides leadership in the administration and functional oversight of Executive Branch personnel programs, it also must share monitoring and compliance responsibilities with its client agencies. The actions of Congress and successive Administrations have built a complex, but effective structure for this shared accountability.

In addition, the Office of Personnel Management maintains a substantial capability to independently identify and resolve major personnel management problems which may emerge in specific agencies or throughout the Executive Branch.

2. The Civil Service Reform Act allows the Director of OPM to delegate personnel functions directly to agency heads. Do you anticipate any changes in the functions now delegated and what criteria would you use in determining appropriate delegations?

Under the provisions of the Civil Service Reform Act, the Office of Personnel Management has delegated a number of personnel authorities to agency heads, including certain aspects of the competitive examining function. These delegations, as they now exist, are the products of consideration of agency needs and our desire for improved overall governmental effectiveness. Delegation of personnel authorities under the CSRA is a dynamic process subject to budgetary, programmatic, organizational, and technological factors which have impact on the administration of and potential for more effective Federal personnel management.

I would envision continued assessment of these factors, and adjustment of the personnel management delegations to agency heads, consistent with administration of a personnel management system which is cost-effective and supportive of agency program needs.

V. PRIVATE SECTOR HUMAN RESOURCES MANAGEMENT PRACTICES

1. A recent study completed by McManus Associates for the President's Council on Management Improvement identified five critical human resources program features found in the private sector and state and local governments. Please comment for each of these features on the extent to which you will be encouraging their incorporation into department and agency human resource programs.

They are:

- o Integrating business/program planning with human resources planning;
- o Streamlining the human resources function by centralizing certain critical functions and totally decentralizing others;
- o Improving productivity through the use of comprehensive effectiveness indicators, employee involvement programs, and health and fitness programs;

- o Requiring management development and succession planning programs;
- o Developing comprehensive automated human resource information systems.

I have not personally reviewed this study as of now, and therefore my comments cannot be highly specific. OPM is currently studying the report which, as you know, was done for the President's Council on Management Improvement (PCMI) for the purpose of assisting Federal agencies to adopt exemplary personnel practices of private corporations and State and local governments.

Phase I of the study, which was just completed, dealt with the identification of exemplary practices in the five critical human resource areas the report identifies. Phase II of the study, which will begin shortly, involves implementing these practices in certain host Federal agencies.

I believe there is great potential for Federal agencies to improve their personnel operations in each of these areas. OPM has worked with Federal agencies in all of these areas in the past. We look forward to receiving the results of Phase II of the project and will review them closely for opportunities to make further improvements in all these areas.

VI. FEDERAL WORK FORCE

1. There has been controversy recently concerning the implementation of a performance-based incentive system. What is your view of this matter?

The Civil Service Reform Act requires that Federal agencies develop performance appraisal systems which use the results of performance appraisals as a basis for training, rewarding, reassigning, promoting, reducing-in-grade, retaining, and removing employees. This Administration also strongly supports these objectives that will lead to a more effective and efficient work force. As the Director of the U.S. Office of Personnel Management, I would press forward on implementing a fair and effective pay-for-performance system for Federal employees.

2. How do you define productivity in the Federal work force? What measures would you take to improve productivity?

There is no definitive or exhaustive measure of productivity in the Federal work force. Varying measures need to be applied to differing situations. This complexity, however, does not excuse the Federal manager from the obligation to engage in rigorous and strenuous efforts at improved productivity.

To continue ongoing efforts to improve productivity, I would engage in continuing review of executive leadership, incentives, technology, and administrative systems, to ensure that Federal employees enjoy the highest quality resources available.

3. What actions will you take to attract talent to the civil service?

There are a number of continuing technical and bureaucratic means by which this goal can be accomplished. OPM has a nationwide network of job information centers and area offices to provide information and recruitment services to attract talent to the Federal Government. High quality applicants are attracted by career occupational job announcements issued through this network in cooperation with Federal agencies. In certain shortage occupations, such as scientists and engineers, special pay rates have been authorized to assure quality candidates when normal pay is significantly below the market rate. Moreover, the President's Management Intern Program has been expanded to recruit top graduate school applicants into the mid levels of the service. Of course, I will continue to support efforts of this sort and other appropriate mechanisms for recruitment as needed.

However, it is my firm belief that, given reasonable pay and benefits, the single, most significant factor in attracting talent to the civil service is the regard in which the Federal work force is held by the nation at large, as reflected in the attitudes of elected and appointed officials. If confirmed, I intend to do all I can to communicate to the nation at large the honorable character of civil service, the importance of its contributions throughout our history, and its extraordinary importance to the future.

4. What is your view of the quality of Federal executives compared with those in the private sector. How would you improve that quality, if needed?

I believe the quality of Federal executives is high. I will exercise leadership to continue to maintain and enhance that quality. At this point, I have no comprehensive judgment regarding the relative quality of public and private sector executives--there is obviously considerable variation within each sector.

To assure that we have the highest quality executives possible, however, we need to look at several factors affecting quality, including:

- o Recruitment - Are we making an adequate effort to prepare employees below the executive levels for executive positions, and are we making an adequate effort to attract qualified individuals from the private sector?

- o Accountability - Are agency performance appraisal systems serving adequately to identify and reward outstanding performers? And to improve or remove poor performers?

- o Development - Are all the developmental opportunities provided in the CSRA being used, including both formal training and developmental assignments?

5. What actions would you take to stem the loss of high-grade, highly trained professionals in technical fields?

I am generally aware of the authority exercised by OPM to establish special salary rates. This is perhaps the appropriate vehicle for addressing the problem suggested by this question. If confirmed, I would want to review available data to determine the extent to which the government may be losing high-grade, highly trained professionals and to assess what, if any, modifications to the special salary rate authority might be appropriate.

6. GAO has recommended substantial improvements in Federal work force planning procedures. Do you agree with GAO's recommendations and what would you do to implement them?

I have not yet read the GAO report on work force planning. I am aware, however, that a number of

agencies including OPM and its predecessor, the Civil Service Commission, invested time and money in developing work force planning systems, with few ultimate results. There are genuine difficulties in selecting and implementing a single work force planning system. OPM is currently studying the relationship between organization size and scope and the usefulness of various approaches to work force planning. I would plan to share any effective systems which are found with interested agencies. I would hope, however, that we can avoid setting up another complex and costly program which will soon be put on the shelf with its predecessors.

VII. MANAGEMENT ISSUES

1. Your predecessor said it would take a long time to create new examinations for hiring Federal employees to replace the PACE examination.

   o Do you support the consent decree under which these replacement examinations are being developed?

   OPM is operating under a consent decree signed in the last days of the Carter Administration. It required that OPM eliminate the PACE examination and replace it with examinations which guaranteed that the number of black and Hispanic applicants be in proportion to the number selected. Some of the requirements of the decree directly conflict with the laws, rules, and regulations governing the civil service for which the Director of OPM is responsible. This Administration has opposed that consent decree, but has a legal obligation to abide by it. I will continue to abide by the decree if I am confirmed as Director of OPM.

   o Are there other means by which the replacement process can be accelerated?

   I recognize how important these examinations are to the agencies' hiring efforts and will look to see if the process can be speeded up. I understand, however, that developing and validating new examinations is a difficult and time-consuming process.

2. What emphasis will you give to consolidating regional offices?

As I see it, OPM's major clients are the agencies, the work force, potential applicants for Federal employment and annuitants, many of whom are outside of the Washington metropolitan area. Therefore, OPM, to be effective in carrying out its statutory responsibilities, needs to maintain a strong field presence to meet service requirements.

In meeting these responsibilities I believe that it is essential that we eliminate and reduce unnecessary and redundant overhead expenses, so as to preserve available budgetary and personnel resources for investment in the important substantive program responsibilities entrusted to OPM. Sound and prudent management requires no less, especially when faced with the realities of the substantial budget deficits that confront us.

I believe that OPM can meet its mission requirements within the limits of its budgetary resources, without eliminating its field presence in those cities where we currently have regional offices. OPM's FY 86 budget request includes proposals to streamline its field operations through reductions in management and administrative overhead. These proposals are not designed to eliminate the OPM program functions from those locations where its clients are concentrated. Rather, their purpose is to streamline program management activities. This can be achieved by taking advantage of new technologies, expanded application of automated data processing and communications systems, selective recruitment and retraining of existing staff where necessary.

3. The Grace Commission, in its Federal Management Systems report, said that career professionals are not provided with suitable insights into what the Administration expects their agencies to accomplish.

o How will you improve communications with employees in your own organization and in other Federal Agencies on personnel management issues?

Effective communications with OPM employees and Federal agencies are essential to OPM's mission. I intend to review OPM's internal and external communications closely and make any needed improvements.

- o Do you see the Federal Executive Boards as an effective communications tool and how will you use them to communicate with Federal managers in the field?

  The FEBs provide a direct line of communications to and from Federal managers in the field. As such, FEBs are a means by which OPM can provide managers with timely information and guidance regarding their personnel management responsibilities and receive the benefit of the views of highly-experienced Federal managers. I hope to use FEBs to those ends in a variety of ways.

4. The National Academy of Public Administration's 1983 report on Revitalizing Federal Management recommended (p. 40) that OPM take the lead in planning and promoting a major program to strengthen the personnel role of Federal managers, including taking greater control over critical personnel processes such as recruitment and classification.

   - o Do you support the concept of holding Federal managers responsible and accountable for personnel management?

     I understand that OPM staff have made a comprehensive review of the recommendations contained in the NAPA report, and I will be better able to respond to this question after I have had a chance to study these recommendations in detail.

   - o What actions will you take to delegate more personnel management responsibilities to line managers?

     Line managers are a key element in Federal personnel management, and should have sufficient responsibility to do their jobs. Beyond that, I am not prepared to spell out in any detail how far delegations should go. I will need to study the issues more fully before I can provide detailed answers.

5. Under 5 U.S.C. 4703, you would have the authority to conduct and evaluate demonstration projects that would result in improved Federal personnel management. To what extent would you use that authority?

OPM has used the demonstration authority sparingly in the past and I intend to see if additional opportunities warrant government investment.

VIII. EMPLOYEE BENEFITS

1. Do you support the basic premise of pay comparability? Do you intend to change the current system? Do you believe that pay and benefits should be considered as a single compensation package?

The principle of pay comparability is sound, but its operation under the current law is flawed. Following extensive study of the pay comparability system by a working group of the President's Council on Management and Administration, a consensus emerged in favor of major changes in the survey on which the annual comparability recommendation is based. The changes would include expansion of the survey to smaller firms.

Expansions have long been needed to improve survey representativeness and provide for salary information from the large number of establishments presently excluded. Information from the test survey of State and local governments cannot be used in the computation process until enabling legislation is passed. Since these governments employ workers in jobs most similar to many Federal jobs, I would support amending the current law to include such data in future pay comparisons.

Pay and benefits are inextricably linked and are, in fact, simply different forms of compensation. This does not mean, however, that their several parts cannot be considered and worked on independently. Given the complexity of many pay and benefit programs, they often must be worked on one at a time.

2. What changes, if any, will you propose as Director of OPM to Federal leave policies?

Current Federal leave policies have been criticized as being overly generous (Grace Commission) and at the same time as offering too little protection for short-service employees who become ill. I will need to study the operation of the sick and annual leave system more closely before deciding fundamental change is warranted.

IX. RELATIONS WITH CONGRESS

1. If you are confirmed, do you agree without reservation to appear and testify before any duly constituted committee of the Congress?

Yes, I agree to appear and testify before the Congress.

2. Are you willing to provide such information as is requested by such committees?

Yes, I agree to provide such information as is requested by such committees.

3. How do you plan to keep Congress informed of OPM's activities?

I look forward to cooperating with the Congress in all matters of mutual concern. This includes responding fully to requests for information. On a continuing basis, the OPM will keep Members and committee staffs informed, both regarding OPM's initiatives and in response to Congressional inquiries.

PREPARED STATEMENT OF CONSTANCE J. HORNER

Mr. Chairman and Members of the Committee, I am pleased to be here as the President's nominee to serve as Director of the Office of Personnel Management.

I am honored by this designation, because of the importance attached to strong and effective leadership for the civil service. It is important for the citizens of a democracy to respect government service and honor its accomplishments, because these accomplishments are the ultimate practical embodiment and validation of our system of government. Because I believe this, I hope to assure that government service remains the highly-respected profession it has been historically and continues to be today.

As President Reagan has said, "The ability of this or any other Administration to succeed . . . in no small measure depends on the energy, the dedication, and the spirit of our Federal employees." In the past century, we've developed a system which allows Federal employees to make their strongest contributions and which evaluates those contributions on the basis of how good they are, not on the basis of who makes them. Knowledge, ability, skill, hard work--the elements we call performance--are increasingly the basis for the respect Federal employees command. For this reason, I am proud to be associated with the efforts this Administration and the Congress have made to heighten reward for performance in implementing the Civil Service Reform Act.

These efforts are not only the law, and not only good management, they are reflective of the nation's high expectations for the work of its public employees.

I am proud also to be associated with the good government management improvements the last four years have seen. The huge backlog of applications for retirement payments has been reduced to manageable levels. Cost controls have been introduced into the Federal health insurance program. OPM itself has become more productive. In 1986, it will be able to carry out its functions with 23 percent fewer people and 17 percent less funds than it required in 1981.

Finally, as the President has directed, OPM has worked diligently with Federal agencies to reduce the number of employees in the non-defense sector, as activities and programs inappropriate to the Federal Government have been reduced, eliminated, or adopted by other units of government.

In the next few years, OPM's efforts should support, I believe, two broad principles, as well as numerous specific goals. The broad principles are continued vigilant protection of the merit system and rigorous attention to work force productivity. Among the most important of the specific goals, OPM needs to work closely with the Congress to help put in place a responsible retirement system for Federal employees under social security.

On this historic issue, as well as others of importance, I would look forward to a strong, cooperative working relationship with the Congress and, in particular, this Committee.

Mr. Chairman, I thank you and the Members of the Committee for this opportunity to explore issues of importance relating to the civil service and I'll be happy to respond to any questions you may have.

Additional Questions and Answers
from Confirmation Hearing
of Constance Horner
Director-Designate of the Office of Personnel Management
Tuesday, July 30, 1985

I. Questions from Senator Rockefeller for Senator Gore:

I am one of twenty-eight co-sponsors of a bill introduced last week by my colleague, Senator Jay Rockefeller of West Virginia, dealing with an age-old OPM policy that is continuing to have a horrendous effect on black lung claims. If you are not familiar with this, you certainly will be soon. OPM continues to rule that black lung cases, when appealed to Administrative Law Judges ("ALGs") in the Department of Labor, should be heard and determined by the agency's ALJs classified as GS-15s. The problem with this is that out of the 90 ALJs in the Labor Department, only 28 are GS-15s. The rest, the other 62, are GS-16s.

These numbers explain a good deal about how the backlog of 21,000 black lung cases emerged: Labor's ALJ office has a total of 30,000 backlogged cases, and thus 21,000 are black lung appeals. (The other 9,000 concern Longshoremen and other Labor-related statutes.) Clearly, from a management perspective, there's something very wrong. Because of OPM's insistence that black lung work is only for GS-15s, the 28 judges must try to process 21,000 cases while the other 62 judges have 9,000 cases.

I don't expect you to decide today to reverse OPM's policy. However, I raise this as an issue and a matter of great concern to Congress because of the policy's effect of undermining Labor's ability to tackle the black lung backlog. Moreover, the history of this issue indicates that OPM won't budge, perhaps simply because it doesn't want to "give in."

It should be noted that Secretary Brock has indicated his desire to have OPM change its policy, too. Naturally, he porobably prefers to have you do it based on the merits alone, without any pressure from him or even us, the Congress.

I'll supply you with documentation that Senator Rockefeller shared with me, demonstrating that black lung work should be reclassified by OPM immediately to the GS-16 category. This is what Senator Rockefeller's bill, again which I and 27 other Senators are co-sponsoring, would do--it would change the law to require the use of GS-16 Administrative Law Judges in processing black lung cases.

Clearly, this change can be made administratively. And the merits suggest that this should be done. I'll cite, for example, a Mr. Alan McKean, OPM's former chief classifier, who concluded in a study released four years ago that, regarding black lung cases, "the published standards for Attorney positions provide a clear

basis for supporting GS-16 when proper recognition and weight is given to the level of responsibility inherent in the genuinely judicial function of these positions." In the material I will give to you for your review, there are a number of arguments laid out which appear to thoroughly justify the reclassification and upgrading of black lung work.

As questions on this matter, I ask:

1. Are you aware of this issue?

No.

2. Have you any sense as to whether OPM's insistence on its policy of many years reflects a more general problem of inflexibility?

No.

3. Therefore, are you willing to reopen and re-review areas in which OPM's policies, especially those classifying jobs that have critical effects on peoples' lives and well-being, hinder the Federal Government's ability to administer the law? You probably recognize that the complexity and difficulty of certain types of governmental work change, sometimes drastically, over time and should trigger OPM to re-examine its rating of positions responsible for that work. And wouldn't you agree that black lung, given the fact that the law has been amended a number of times and the appeals process has turned into close to a full-court proceeding, should receive priority attention?

Of course, I share a deep concern over management and classification decisions which affect the processing of black-lung cases. Sound and effective classification reviews are essential to assure fair compensation and high levels of productivity.

While I am not familiar with details of this issue I want to assure the Committee that I will familiarize myself with the facts in this matter should I be confirmed.

I encourage you to give this matter your direct and serious attention. As you know, black lung is a crippling disease that causes untold emotional, physical, and financial harm on its victims. Twenty-one thousand (21,000) possible victims are waiting for the Federal Government to determine whether they are entitled to relief under the law, the Black Lung Benefits Act.

Unfortunately, OPM's policy regarding who can render justice under this law makes it impossible for the Labor Department to use its existing resources, its full set of 90 judges, to work on those 21,000 cases. The result reminds me of the adage, "justice delayed is justice denied." On behalf of Senator Rockefeller and

at least 27 other distinguished Senators, I ask for your commitment to assess whether this is the time for OPM to adjust its policy to fulfill the purpose of the law and serve the interests of the American people.

II. Questions from Senator Stevens for Senator Mathias:

I understand that OPM has instituted a program to reduce the number of Grade 11-15 positions to cure a so-called "grade bulge" problem. A GAO study of this program raises serious questions about the efficacy of the program, and I must admit that it raises serious questions in my mind as well.

1. Are you familiar with this program and the GAO report?

The Administration's program to reduce the percentage of GS 11-15 employees in the work force was implemented only after considerable review and consultation among agency representatives on the Cabinet Council on Management and Administration. Every effort was made to retain maximum flexibility in the agencies. There can be little doubt that the growing size of the GS 11-15 work force is a matter of concern. In 1959 there were 21 percent of full-time employees in the 11-15 band; today there are almost 40 percent. Much of this increase can be explained by changing missions and occupations. Nevertheless, there is room, and need, for improvement. Of course, the Administration through the budget process can and has dealt with particular problems within agencies. OPM will continue to monitor agency statistics and report them to OMB and agency heads.

I am concerned that programs of this nature seem to hurt employee morale and make it difficult for the Federal Government to recruit and retain qualified personnel. This is a very serious problem. It is suggested by the GAO report and by employee representatives at HUD (where this program is being implemented) that there are ways to achieve comparable savings and improve position management without creating negative effects in the Federal work force.

2. Would you be willing to review the original OPM proposal, and rework it if necessary, so that these negative effects will be eliminated?

I will continue to review this initiative to assure that it remains appropriate in both its rationale and its execution.

III. Questions from Senator Gore:

1. Would you please tell me what OPM is doing through the FEHB program to encourage health promotion, disease prevention benefits for Federal employees?

The FEHB offers employees a broad choice among different types of health plans, including a large and growing number of health maintenance organizations. One of the fundamental purposes of HMOs is to prevent serious illnesses via a program of education, early detection and preventive care. These plans provide specific preventive care benefits such as periodic checkups, well-baby care, routine immunizations and boosters, eye examinations for diseases of the eye, and hearing tests. In addition, many Prepaid plans provide preventive dental care for children. The number of HMOs in the program is now 192 with approximately 80 new ones joining the program in 1986. This type of health plan has been gaining popularity with Federal workers and has increased its market share in the last several open seasons by 1 to 2 percent a year.

FEHB Fee-For-Service plans include some benefits which are preventive by nature such as routine physical examinations, routine dental examinations, well-baby care and vision care. Fee-For-Service plans also place great emphasis on the importance of good health practice and health through the media and newsletters. They regularly address such subjects as alcoholism and drug abuse prevention, hypertension control, good nutrition and weight control, anti-smoking information, mental health referrral, heart disease informatin, VD and sex counseling, home and office safety.

2. What do you believe OPM could be doing to provide greater health promotion and disease prevention emphasis in the FEHB program?

OPM should continue to advance a voucher-type health insurance program which would maximize the options available to Federal employees and encourage the development of a larger variety of plans, including those with strong health promotion and disease prevention features. In terms of the existing program, OPM will continue to produce informational materials about health coverage that will better inform employees about available choices.

Senator STEVENS. Our next witness is G. Jerry Shaw, general counsel of the Senior Executives Association.

TESTIMONY OF G. JERRY SHAW, GENERAL COUNSEL, SENIOR EXECUTIVES ASSOCIATION, ACCOMPANIED BY BLAIR CHILDS, EXECUTIVE DIRECTOR

Mr. SHAW. Thank you, Mr. Chairman, for the opportunity for the SEA to testify before you on the nomination of Mrs. Horner for Director of OPM. I am joined today by Blair Childs, the executive director of SEA.

We take no position on the qualification of any individual for administration positions. Therefore, SEA does not take a position on Mrs. Horner's personal qualifications or fitness for the directorship. Rather, we will comment on the type of leadership and direction which we believe OPM requires at this time.

We believe that the OPM Director is of prime importance to the Government.

The personnel program of the Federal Government is critical to achieve the objectives of the administration and to carry out the legislative mandates of Congress. Federal employees today are being challenged to improve Government services, respond to new technology, carry out new policy directives, and in many cases, increase productivity in the face of shrinking resources.

At the same time, major changes are being proposed in the retirement system and other personnel systems which Federal employees have relied on as a condition of employment. Seldom has the Federal work force more badly needed a central personnel office which can provide support and leadership.

The changes proposed have created uncertainty among employees. It is necessary that OPM take the lead in facing management and personnel concerns in a positive and constructive way. The manner in which Federal personnel matters are handled impacts directly on the ability of the Federal Government to perform effectively.

We would like to describe some of the human resource needs that must be met.

OPM has a wide range of responsibilities defined in the statute. The responsibilities which we believe are in dire need of attention include employee training and development; research; the classification system; performance evaluation; the Federal Personnel Manual; delegations of personnel authority; and the PACE examination.

Mr. Chairman, I would like to submit my comments for the record and just summarize one point concerning the Federal Personnel Manual system which we believe needs to be dwelled on.

The National Academy of Public Administration recently stated in a report, and we quote:

> The Federal Personnel Manual has 8,814 pages. If regulations generated good personnel management, the Federal Government would have the best personnel system in the world. In fact, the personnel system doesn't seem to work very well for anybody.

The NAPA study makes a whole series of recommendations about how the Federal Personnel Manual can be reduced to realis-

tic size, including the development by OPM of a useable special handbook for managers and supervisors. We recommend that such a program for the revision of the FPM be high on the OPM priority list.

Mr. Chairman, we note under Ms. Cornelius' leadership that OPM recently released a handbook which is apparently the beginning of a revision of the Federal Personnel Manual.

In conclusion, we would like to emphasize that SEA looks forward to working with the new Director on these issues. We believe that solutions to the issues, mentioned in our prepared statement, will improve the morale of our Government work force, which is our most important resource.

Mr. Chairman, we appreciate the opportunity to be here today. We are prepared to answer any questions you might have.

Senator STEVENS. All right, thank you. I have read your statement. It is a very fine statement. I assume that your people have worked with the nominee in her position at OMB from time to time.

Mr. SHAW. Mr. Chairman, Mrs. Horner has been a Federal executive, providing leadership to career employees, for some 4 years now, and a large number of the career senior executives have met and worked with her. They have reported to us that she is a woman of great integrity and competence and that she has demonstrated an excellent ability to use well the experience and talent embodied in the career civil servant work force.

We are pleased to be able to make that statement for the record today.

Senator STEVENS. Thank you very much. She impresses us that way, too. We are delighted to have you appear, and your full statement will be put in the record.

Mr. SHAW. Thank you, Mr. Chairman.

Senator STEVENS. Thank you very much.

[The prepared statement of Messrs. Shaw and Childs follows:]

Senior Executives Association

STATEMENT OF

the

SENIOR EXECUTIVES ASSOCIATION

before the

COMMITTEE ON GOVERNMENT AFFAIRS

NOMINATION OF CONSTANCE HORNER

AS DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT

July 30, 1985

by

G. Jerry Shaw
General Counsel

and

Blair Childs
Executive Director

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We appreciate the opportunity to appear before the committee to present the views of the Senior Executives Association (SEA) on the nomination of Ms. Constance Horner to be director of the Office of Personnel Management (OPM). SEA takes no position on Ms. Horner's personal qualitifications or fitness for the directorship. Rather, we will comment on the type of leadership and direction which we believe OPM requires at this time.

SEA believes tha the OPM director is of prime importance to the government. The personnel program of the Federal Government is critical to achieve the objectives of the Administration and to carry out the legislative mandates of Congress. Federal employees today are being challenged to improve government services, to respond to new technology, to carry out new policy directives, and in many cases, to increase productivity in the fact of shrinking resources.

At the same time, major changes are being proposed in the retirement system and other personnel systems which federal employees have relied on as a condition cf employment. Seldom has the federal workforce more badly needed a central personnel office which can provide support and leadership.

The changes proposed have created uncertainty among employees. It is necessary that OPM take the lead in facing management and personnel concerns in a positive and constructive way. The manner in which federal personnel matters are handled impacts directly on the ability of the federal government to perform effectively.

We would like to describe some of the human resource needs that must be met.

OPM has a range of responsibilities defined in statute. The responsibilities which SEA believes are in dire need of attention include employee training and development, research, the classification system, performance evaluation, the Federal Personnel Manual, delegations of personnel management authority, and the PACE examination.

Employee Training and Development

At a time when we have underway major management initiatives such as automation, regulatory reform and expansion of contracting out, OPM has not articulated a policy and plan of action for improving employee training. While we recognize that such training and development is, indeed, a responsibility of the agencies, OPM must provide assistance and exert its government-wide role to influence the agencies to meet these training needs. OPM must:

- o evaluate government-wide needs for training and employee development,
- o establish a strong policy and leadership posture in support of such education and training needs,
- o develop new programs and courses which would help to meet such needs,
- o protect budget funds for training and education by offering sound advice and information to the White

House and Congress which would help to explain and justify the need for such funds.

SES Training and Development

In a similar vein, OPM must articulate an overall policy for senior executive development, and evaluate agency efforts, to ensure that agencies are providing the kind of executive development programs defined in the Civil Service Reform Act (CSRA). OPM should assist in the promotion of SES mobility programs.

Research and Demonstration Programs

We believe OPM should establish a personnel management research program. The Federal Government continues to implement major changes in its personnel system, for example, performance evaluation and merit pay, without necessary research. With such a research program, OPM and Congress will more fully understand the effect of proposed laws and regulations and be able to develop policies which promote productivity and effectiveness.

The Classification System

The classification system is an absolutely essential tool for the development and maintenance of a sound, acceptable personnel system. Current classification actions are open to question regarding accuracy and reliability. Part of the current debate over appropriate numbers of grades 13, 14, and 15 positions is caused by uncertainty over the current classification system. What is needed, and what SEA recommends, is a major new study and redesign of the classification system.

Merit Pay/Performance Evaluation

The implementation of the merit pay system must be evaluated and other types of pay motivation systems must be studied to determine which are most effective and which actually affect motivation and productivity.

Workforce Data and Analysis

OPM must develop and publicize reliable data about the federal workforce. Just as we have good, statistically sound data from the Bureau of Labor Statistics (BLS) on the national workforce, we should have a comparable program of reliable federal workforce data to aid and support the public policy debate affecting that workforce, including its total pay and benefits compensation package. Congress should review and approve the contents of such data to assure its accuracy and reliability.

Delegations of Personnel Management Authority

OPM badly needs to establish a deliberate policy of granting agencies the latitude to manage their own personnel matters, especially for recruitment, selection and classification through greater delegations of authority.

The Federal Personnel Manual

The National Academy of Public Administration (NAPA) recently stated in a report: "The Federal Personnel Manual (FPM) has eight thousand eight hundred and fourteen pages. If regulations generated good personnel management, the Federal

Government would have the best personnel system in the world. --In fact, the personnel system doesn't seem to work very well for anybody." The NAPA study makes a whole series of recommendations about how the FPM can be reduced to realistic size, including the development by OPM of a useable, special handbook for managers and supervisors. We recommend that such a program for revision of the FPM be high on the OPM priority list.

The Professional and Clerical Examination (PACE)

Over five years ago, the courts ordered the withdrawal of the PACE examination as the principal vehicle by which the Federal Government tested and listed thousands of candidates for entry level professional federal jobs. Action must be take to replace this exam with a new vehicle which satisfies the court's concern. A priority for OPM must be to develop a new instrument for testing entry level applicants or delegate to agencies, the authority to develop their own systems which comply with the court's concerns.

In conclusion, we would like to emphasize that SEA looks forward to working with the new director on these issues. We believe that solutions to these issues will improve the morale and productivity of our government workforce, which is our most important resource.

Senator STEVENS. That concludes this hearing. The committee will poll out the nominee. I ask the staff to contact the chairman and institute the procedure immediately. Thank you.

[Whereupon, at 3:30 p.m., the committee was recessed subject to the call of the Chair.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
Affiliated with AFL-CIO
1325 Massachusetts Avenue, N.W., Washington, D. C. 20005

STATEMENT FOR THE RECORD
BY

KENNETH T. BLAYLOCK
NATIONAL PRESIDENT
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
(AFL-CIO)

HEARING BEFORE

GOVERNMENTAL AFFAIRS COMMITTEE
UNITED STATES SENATE

ON

THE NOMINATION OF CONSTANCE HORNER
AS DIRECTOR OF
OFFICE OF PERSONNEL MANAGEMENT

JULY 30, 1985

My name is Kenneth T. Blaylock. I am the National President of the American Federation of Government Employees (AFGE), which represents 700,000 Federal employees nationwide. AFGE is pleased to have this opportunity to testify at the confirmation hearing on the nomination of Constance Horner to be Director of the Office of Personnel Management.

The Director of the Office of Personnel Management is a vitally important office not only to the millions of Federal employees who work for the government, but to the entire American public who are touched by the programs and policies of the Federal government. The multitude of government agencies will perform to the American public's expectations to the degree -- and only to the degree -- that the personnel in these agencies are competent, qualified, experienced, and dedicated. Likewise, the personnel will meet these requirements only to the degree that personnel and management philosophies and practices of the Federal government support and foster these qualities.

The OPM Director is vested by law with the responsibility for executing, administering, and enforcing the laws designed for these purposes. The office is responsible for providing the President with guidance on personnel policies which promote an efficient Civil Service and a systematic application of merit system principles.

In short, this office is imbued with awesome duties and responsibilities to the American public and the President. It is incumbent upon this committee to insure that the nominee is worthy of these duties and responsibilities.

Desirable qualities which we would hope for in a Director would include:

- Hands-on experience in managing a large work force
- An academic background in personnel management and/or human resource development
- A background which shows integrity and independence, rather than mere political loyalty
- A demonstrated commitment to a career merit personnel system for the Federal government
- Finally, an individual of integrity, authority, and respect

In all honesty, even if such a person were nominated and confirmed, we fully expect that our differences with the Administration would remain fundamentally unaltered. The Administration is clearly committed to reducing the pay of Federal employees, reducing the retirement benefits and health benefits of Federal workers, and making large and unsound reductions in Federal employees. In all honesty, we do not expect these policies to change. Our opposition to these shortsighted and unwise policies will continue as well. What we would hope for is a return to a rational and civilized debate over the merits of these issues and an abandonment of the demagoguery, lies, and distortions so prevalent in the Devine reign at OPM. As we said in our April 1 testimony before this committee on Devine's reconfirmation:

> "What we are trying to establish here is that our opposition to the reaffirmation of Donald Devine is not only over the differences we have with him on the merits of these various issues, but rather the means he used in striving for his ends. A democracy is dependent upon public debate and accurate information. A democracy is misserved when people in high positions misuse their power to obfuscate debate and propagate misinformation."

However, let me add at this point that without a change in the fundamental personnel policies of this Administration, the underlying personnel problems of this government will not be resolved. This is the message we have been carrying to Congress consistently over the past 7 to 8 years.

Despite the validity of our case, all too often it is dismissed as a case of special pleading. Yet, we want the committee to note that the same case was recently made by Georgiana Sheldon, a Republican political appointee, who has 30 years of service to the Federal government in the Peace Corps, the Defense Department, AID, and the Federal Energy Regulatory Commission. In the July 24 issue of the Washington Post her comments were reported as follows:

> "I find that, looking at the business of government in general, . . . the last few administrations have not really understood how government operates.
>
> There is a cadre of professional people in the government which makes government work. . . In 10 years, I think we're going to have less than mediocrity . . .
>
> In the career system or in the political appointees, we're not attracting the best and brightest people . . .
>
> We used to get the top of the law schools, the top of the engineering schools, coming into government, and after several years they would take a job in the private sector and share their government experiences.
>
> But Americans don't know what government is all about any more. They have preconceived ideas that all those bureaucrats sit around and do nothing all day. After a few years, I can tell you that's not true. I think there's a vast difference in what's happened to the perception of government in the last few years. And I'm very concerned about it."

I want to emphasize this is not a liberal Democrat or trade union official speaking, but a high government official with impeccable Republican credentials, and with more than thirty years of

Federal service to her credit.

Her comments reflect the legacy of Donald Devine and the damage that his actions and initiatives have caused. As is so often the case -- it is easier to destroy than to build -- and it will take time and effort to reestablish an effective, trustworthy, and respected personnel system in the Federal sector.

We urge this committee to investigate closely Mrs. Horner's commitment to this rebuilding. We urge that they question her closely on her commitment to rebuilding OPM's ties and lines of communication to Congress and to the elected representatives of Federal employees. We hope she will signal a clean break with the Devine policy of politicizing this important office. I hope this committee will investigate thoroughly her plans with regard to Loretta Cornelius, who in one day of testimony won over the hearts and minds of Federal workers with her stand for honesty and integrity.

At this time, AFGE is not opposed to this nomination. We look forward to a fresh start at OPM and a clean break from the methods of Don Devine. We are fully committed to working with the nominee -- in a good-faith effort to rebuild the personnel system in the Federal government into a model which we can ALL be proud of.

Thank you.

NATIONAL ASSOCIATION OF LETTER CARRIERS
AFL-CIO

VINCENT R. SOMBROTTO
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TESTIMONY OF

VINCENT R. SOMBROTTO, PRESIDENT

NATIONAL ASSOCIATION OF LETTER CARRIERS

BEFORE THE

SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

ON THE

NOMINATION OF CONSTANCE HORNER

August 1, 1985

CONGRESSIONAL TESTIMONY

Mr. Chairman. My name is Vincent R. Sombrotto, President of the National Association of Letter Carriers, a union representing 268,000 active and retired city letter carriers. I appreciate the opportunity to testify at this confirmation hearing for Ms. Constance Horner as the new Director of the Office of Personnel Management.

The NALC welcomes a change in leadership at the Office of Personnel Management. As this subcommittee knows, we recently testified in opposition to the renomination of former Director Don Devine. His tenure was marked by controversy and turmoil and was directly responsible for the current severe morale problems. Since many carriers look at their jobs as a career in which they take considerable pride, they were shocked by comments and accusations eminating from Devine's office which portrayed negative stereotypes of postal employees and their hard-earned retirement program.

We hope that OPM can return to an objective, non-partisan course under a new director with mutual respect for all parties. This was the intent of Congress more than 100 years ago when President Chester A. Arthur signed legislation establishing the Civil Service.

As the employer of 2.7 million dedicated federal and postal workers, OPM's guiding principles need to be diplomacy rather than dictates and consultation rather than confrontation. We will work to fulfill those goals.